

expenditure on each of the surface transportation program under section 133, the bridge program under section 144, the congestion mitigation and air quality improvement program under section 149, the Interstate and National Highway System program, the minimum guarantee program under section 105, the Federal lands highway program under section 204, or the Appalachian development highway system program under section 201<sup>1</sup> of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.), the Secretary shall deduct a sum, in an amount not to exceed—

(A) 1½ percent of all sums so made available, as the Secretary determines necessary—

(i) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

(ii) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system; and

(B) one-third of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety research.

(2) CONSIDERATION OF UNOBLIGATED BALANCES.—In making the determination described in paragraph (1), the Secretary shall take into account the unobligated balance of any sums deducted under this subsection in prior fiscal years.

(3) AVAILABILITY.—The sum deducted under paragraph (1) shall remain available until expended.

(4) LIMITATION ON TRANSFERABILITY.—Unless expressly authorized by law, the Secretary may not transfer any sums deducted under paragraph (1) to a Federal agency or entity other than the Federal Highway Administration and the Federal Motor Carrier Safety Administration.

(b) APPORTIONMENTS.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) and the set-aside authorized by subsection (f), shall apportion the remainder of the sums authorized to be appropriated for expenditure on the Interstate and National Highway System program, the Congestion Mitigation and Air Quality Improvement program, and the Surface Transportation program for that fiscal year, among the several States in the following manner:

(1) NATIONAL HIGHWAY SYSTEM COMPONENT.—

(A) IN GENERAL.—For the National Highway System (excluding funds apportioned under paragraph (4)), \$36,400,000 for each fiscal year to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands, \$18,800,000 for each of fiscal years 1998 through 2002 for the Alaska Highway, and the remainder apportioned as follows:

(i) 25 percent in the ratio that—

(I) the total lane miles of principal arterial routes (excluding Interstate System routes) in each State; bears to

(II) the total lane miles of principal arterial routes (excluding Interstate System routes) in all States.

(ii) 35 percent in the ratio that—

(I) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in each State; bears to

(II) the total vehicle miles traveled on lanes on principal arterial routes (excluding Interstate System routes) in all States.

(iii) 30 percent in the ratio that—

(I) the total diesel fuel used on highways in each State; bears to

(II) the total diesel fuel used on highways in all States.

(iv) 10 percent in the ratio that—

(I) the quotient obtained by dividing the total lane miles on principal arterial highways in each State by the total population of the State; bears to

(II) the quotient obtained by dividing the total lane miles on principal arterial highways in all States by the total population of all States.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A) and paragraph (4), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under subparagraph (A) and paragraph (4).

(2) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—

(A) IN GENERAL.—For the congestion mitigation and air quality improvement program, in the ratio that—

(i) the total of all weighted nonattainment and maintenance area populations in each State; bears to

(ii) the total of all weighted nonattainment and maintenance area populations in all States.

(B) CALCULATION OF WEIGHTED NONATTAINMENT AND MAINTENANCE AREA POPULATION.—Subject to subparagraph (C), for the purpose of subparagraph (A), the weighted nonattainment and maintenance area population shall be calculated by multiplying the population of each area in a State that was a nonattainment area or maintenance area as described in section 149(b) for ozone or carbon monoxide by a factor of—

(i) 0.8 if—

(I) at the time of the apportionment, the area is a maintenance area; or

(II) at the time of the apportionment, the area is classified as a submarginal ozone nonattainment area under the Clean Air Act (42 U.S.C. 7401 et seq.);

(ii) 1.0 if, at the time of the apportionment, the area is classified as a marginal ozone nonattainment area under subpart 2 of part D of title I of the Clean Air Act (42 U.S.C. 7511 et seq.);

<sup>1</sup> See References in Text note below.

(iii) 1.1 if, at the time of the apportionment, the area is classified as a moderate ozone nonattainment area under such subpart;

(iv) 1.2 if, at the time of the apportionment, the area is classified as a serious ozone nonattainment area under such subpart;

(v) 1.3 if, at the time of the apportionment, the area is classified as a severe ozone nonattainment area under such subpart;

(vi) 1.4 if, at the time of the apportionment, the area is classified as an extreme ozone nonattainment area under such subpart; or

(vii) 1.0 if, at the time of the apportionment, the area is not a nonattainment or maintenance area as described in section 149(b) for ozone, but is classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide.

(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—

(i) CARBON MONOXIDE NONATTAINMENT AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was also classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.2.

(ii) CARBON MONOXIDE MAINTENANCE AREAS.—If, in addition to being classified as a nonattainment or maintenance area for ozone, the area was at one time also classified under subpart 3 of part D of title I of such Act (42 U.S.C. 7512 et seq.) as a nonattainment area described in section 149(b) for carbon monoxide but has been redesignated as a maintenance area, the weighted nonattainment or maintenance area population of the area, as determined under clauses (i) through (vi) of subparagraph (B), shall be further multiplied by a factor of 1.1.

(D) MINIMUM APPORTIONMENT.—Notwithstanding any other provision of this paragraph, each State shall receive a minimum of  $\frac{1}{2}$  of 1 percent of the funds apportioned under this paragraph.

(E) DETERMINATIONS OF POPULATION.—In determining population figures for the purposes of this paragraph, the Secretary shall use the latest available annual estimates prepared by the Secretary of Commerce.

(3) SURFACE TRANSPORTATION PROGRAM.—

(A) IN GENERAL.—For the surface transportation program, in accordance with the following formula:

(i) 25 percent of the apportionments in the ratio that—

(I) the total lane miles of Federal-aid highways in each State; bears to

(II) the total lane miles of Federal-aid highways in all States.

(ii) 40 percent of the apportionments in the ratio that—

(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

(iii) 35 percent of the apportionments in the ratio that—

(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of  $\frac{1}{2}$  of 1 percent of the funds apportioned under this paragraph.

(4) INTERSTATE MAINTENANCE COMPONENT.—For resurfacing, restoring, rehabilitating, and reconstructing the Interstate System—

(A)  $33\frac{1}{3}$  percent in the ratio that—

(i) the total lane miles on Interstate System routes open to traffic in each State; bears to

(ii) the total of all such lane miles in all States;

(B)  $33\frac{1}{3}$  percent in the ratio that—

(i) the total vehicle miles traveled on Interstate System routes open to traffic in each State; bears to

(ii) the total of all such vehicle miles traveled in all States; and

(C)  $33\frac{1}{3}$  percent in the ratio that—

(i) the total of each State's annual contributions to the Highway Trust Fund (other than the Mass Transit Account) attributable to commercial vehicles; bears to

(ii) the total of such annual contributions by all States.

(c) TRANSFERABILITY OF NHS APPORTIONMENTS.—A State may transfer not to exceed 50 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3). A State may transfer not to exceed 100 percent of the State's apportionment under subsection (b)(1) to the apportionment of the State under subsection (b)(3) if the State requests to make such transfer and the Secretary approves such transfer as being in the public interest, after providing notice and sufficient opportunity for public comment. Section 133(d) shall not apply to funds transferred under this subsection.

(d) OPERATION LIFESAVER AND HIGH SPEED RAIL CORRIDORS.—

(1) OPERATION LIFESAVER.—Before making an apportionment under subsection (b)(3) of this

section for a fiscal year, the Secretary shall set aside \$500,000 for such fiscal year for carrying out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings.

(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

(A) IN GENERAL.—Before making an apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside \$5,250,000 of the funds made available for the surface transportation program for the fiscal year for elimination of hazards of railway-highway crossings.

(B) ELIGIBLE CORRIDORS.—Subject to subparagraph (E), funds made available under subparagraph (A) shall be expended for projects in—

(i) 5 railway corridors selected by the Secretary in accordance with this subsection (as in effect on the day before the date of enactment of this clause);

(ii) 3 railway corridors selected by the Secretary in accordance with subparagraphs (C) and (D);

(iii) a Gulf Coast high speed railway corridor (as designated by the Secretary);

(iv) a Keystone high speed railway corridor from Philadelphia to Harrisburg, Pennsylvania; and

(v) an Empire State railway corridor from New York City to Albany to Buffalo, New York.

(C) REQUIRED INCLUSION OF HIGH SPEED RAIL LINES.—A corridor selected by the Secretary under subparagraph (B) shall include rail lines where railroad speeds of 90 miles or more per hour are occurring or can reasonably be expected to occur in the future.

(D) CONSIDERATIONS IN CORRIDOR SELECTION.—In selecting corridors under subparagraph (B), the Secretary shall consider—

(i) projected rail ridership volume in each corridor;

(ii) the percentage of each corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line;

(iii) projected benefits to nonriders such as congestion relief on other modes of transportation serving each corridor (including congestion in heavily traveled air passenger corridors);

(iv) the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities; and

(v) the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in each corridor.

(E) CERTAIN IMPROVEMENTS.—Not less than \$250,000 of such set-aside shall be available per fiscal year for eligible improvements to the Minneapolis/St. Paul-Chicago segment of the Midwest High Speed Rail Corridor.

(F) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated

\$15,000,000 for each of fiscal years 1999 through 2003 to carry out this subsection.

(e) CERTIFICATION OF APPORTIONMENTS.—

(1) IN GENERAL.—On October 1 of each fiscal year the Secretary shall certify to each of the State transportation departments the sums which he has apportioned hereunder to each State for such fiscal year, and also the sums which he has deducted for administration pursuant to subsection (a) of this section. To permit the States to develop adequate plans for the utilization of apportioned sums, the Secretary shall advise each State of the amount that will be apportioned each year under this section not later than ninety days before the beginning of the fiscal year for which the sums to be apportioned are authorized, except that in the case of the Interstate System the Secretary shall advise each State ninety days prior to the apportionment of such funds.

(2) NOTICE TO STATES.—If the Secretary has not made an apportionment under section 104, 105, or 144 by the 21st day of a fiscal year beginning after September 30, 1998, the Secretary shall transmit, by such 21st day, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a written statement of the reason for not making such apportionment in a timely manner.

(f) METROPOLITAN PLANNING.—

(1) SET-ASIDE.—On October 1 of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed 1 percent of the remaining funds authorized to be appropriated for expenditure upon programs authorized under this title, for the purpose of carrying out the requirements of section 134 of this title.

(2) APPORTIONMENT TO STATES OF SET-ASIDE FUNDS.—These funds shall be apportioned to the States in the ratio which the population in urbanized areas or parts thereof, in each State bears to the total population in such urbanized areas in all the States as shown by the latest available census, except that no State shall receive less than one-half per centum of the amount apportioned.

(3) USE OF FUNDS.—The funds apportioned to any State under paragraph (2) of this subsection shall be made available by the State to the metropolitan planning organizations responsible for carrying out the provisions of section 134 of this title, except that States receiving the minimum apportionment under paragraph (2) may, in addition, subject to the approval of the Secretary, use the funds apportioned to finance transportation planning outside of urbanized areas. These funds shall be matched in accordance with section 120(b) unless the Secretary determines that the interests of the Federal-aid highway program would be best served without such matching.

(4) DISTRIBUTION OF FUNDS WITHIN STATES.—The distribution within any State of the planning funds made available to agencies under paragraph (3) of this subsection shall be in accordance with a formula developed by each

State and approved by the Secretary which shall consider but not necessarily be limited to, population, status of planning, attainment of air quality standards, metropolitan area transportation needs, and other factors necessary to provide for an appropriate distribution of funds to carry out the requirements of section 134 and other applicable requirements of Federal law.

(5) DETERMINATION OF POPULATION FIGURES.—For the purposes of determining population figures under this subsection, the Secretary shall use the most recent estimate published by the Secretary of Commerce.

(g) Not more than 40 per centum of the amount apportioned in any fiscal year to each State in accordance with sections 130, 144, and 152 of this title may be transferred from the apportionment under one section to the apportionment under any other of such sections if such a transfer is requested by the State transportation department and is approved by the Secretary as being in the public interest. The Secretary may approve the transfer of 100 per centum of the apportionment under one such section to the apportionment under any other of such sections if such transfer is requested by the State transportation department, and is approved by the Secretary as being in the public interest, if he has received satisfactory assurances from such State transportation department that the purposes of the program from which such funds are to be transferred have been met. A State may transfer not to exceed 50 per cent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d). Nothing in this subsection authorizes the transfer of any amount apportioned from the Highway Trust Fund to any apportionment the funds for which were not from the Highway Trust Fund, and nothing in this subsection authorizes the transfer of any amount apportioned from funds not from the Highway Trust Fund to any apportionment the funds for which were from the Highway Trust Fund.

(h) RECREATIONAL TRAILS PROGRAM.—

(1) ADMINISTRATIVE COSTS.—Whenever an apportionment is made of the sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct an amount, not to exceed 1½ per cent of the sums authorized, to cover the cost to the Secretary for administration of and research and technical assistance under the recreational trails program and for administration of the National Recreational Trails Advisory Committee. The Secretary may enter into contracts with for-profit organizations or contracts, partnerships, or cooperative agreements with other government agencies, institutions of higher learning, or non-profit organizations to perform these tasks.

(2) APPORTIONMENT TO THE STATES.—After making the deduction authorized by paragraph (1) of this subsection, the Secretary shall apportion the remainder of the sums authorized to be appropriated for expenditure on the recreational trails program for each fiscal

year, among the States in the following manner:

(A) 50 percent of that amount shall be apportioned equally among eligible States.

(B) 50 percent of that amount shall be apportioned among eligible States in amounts proportionate to the degree of non-highway recreational fuel use in each of those States during the preceding year.

(3) ELIGIBLE STATE DEFINED.—In this section, the term "eligible State" means a State that meets the requirements of section 206(c).

(i) AUDITS OF HIGHWAY TRUST FUND.—From administrative funds deducted under subsection (a), the Secretary may reimburse the Office of Inspector General of the Department of Transportation for the conduct of annual audits of financial statements in accordance with section 3521 of title 31.

(j) REPORT TO CONGRESS.—The Secretary shall submit to Congress a report for each fiscal year on—

(1) the amount obligated, by each State, for Federal-aid highways and highway safety construction programs during the preceding fiscal year;

(2) the balance, as of the last day of the preceding fiscal year, of the unobligated apportionment of each State by fiscal year under this section and sections 105 and 144;

(3) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for the fiscal year; and

(4) the rates of obligation of funds apportioned or set aside under this section and sections 105, 133, and 144, according to—

(A) program;

(B) funding category or subcategory;

(C) type of improvement;

(D) State; and

(E) sub-State geographic area, including urbanized and rural areas, on the basis of the population of each such area.

(k) TRANSFER OF HIGHWAY AND TRANSIT FUNDS.—

(1) TRANSFER OF HIGHWAY FUNDS.—Funds made available under this title and transferred for transit projects of a type described in section 133(b)(2) shall be administered by the Secretary in accordance with chapter 53 of title 49, except that the provisions of this title relating to the non-Federal share shall apply to the transferred funds.

(2) TRANSFER OF TRANSIT FUNDS.—Funds made available under chapter 53 of title 49 and transferred for highway projects shall be administered by the Secretary in accordance with this title, except that the provisions of such chapter relating to the non-Federal share shall apply to the transferred funds.

(3) TRANSFER OF OBLIGATION AUTHORITY.—Obligation authority provided for projects described in paragraphs (1) and (2) shall be transferred in the same manner and amount as the funds for the projects are transferred.

(l) EFFECT OF CERTAIN DELAY IN DEPOSITS INTO HIGHWAY TRUST FUND.—Notwithstanding any other provision of law, deposits into the High-

way Trust Fund resulting from the application of section 901(e) of the Taxpayer Relief Act of 1997 (111 Stat. 872) shall not be taken into account in determining the apportionments and allocations that any State shall be entitled to receive under the Transportation Equity Act for the 21st Century and this title.

(Pub. L. 85-767, Aug. 27, 1958, 72 Stat. 889; Pub. L. 86-70, § 21(e)(2), June 25, 1959, 73 Stat. 146; Pub. L. 86-657, § 8(g), July 14, 1960, 74 Stat. 525; Pub. L. 87-866, § 10(a), Oct. 23, 1962, 76 Stat. 1148; Pub. L. 88-157, §§ 2, 3, Oct. 24, 1963, 77 Stat. 276; Pub. L. 88-423, § 4(a), Aug. 13, 1964, 78 Stat. 397; Pub. L. 89-574, § 4(b), Sept. 13, 1966, 80 Stat. 767; Pub. L. 90-495, § 4(b), Aug. 23, 1968, 82 Stat. 816; Pub. L. 91-605, title I, §§ 104(b), 106(c), Dec. 31, 1970, 84 Stat. 1714, 1717; Pub. L. 93-87, title I, §§ 106(b), 111(a), 112, title II, § 227, Aug. 13, 1973, 87 Stat. 254, 256, 257, 292; Pub. L. 94-280, title I, §§ 106(b), 107(b), 112(a)–(g), 113(a), title II, § 206, May 5, 1976, 90 Stat. 429, 430, 433–435, 453; Pub. L. 95-599, title I, §§ 108-110, 116(b), Nov. 6, 1978, 92 Stat. 2695, 2696, 2699; Pub. L. 97-134, §§ 4(c), 5, Dec. 29, 1981, 95 Stat. 1700; Pub. L. 100-17, title I, §§ 102(b)(1), (2), 114(e)(1), Apr. 2, 1987, 101 Stat. 135, 153; Pub. L. 100-202, § 101(l) [title III, § 347(a)], Dec. 22, 1987, 101 Stat. 1329-358, 1329-388; Pub. L. 101-516, title III, § 333 [part], Nov. 5, 1990, 104 Stat. 2184; Pub. L. 102-143, title III, § 333(c), Oct. 28, 1991, 105 Stat. 947; Pub. L. 102-240, title I, §§ 1001(c)–(e), 1003(e), 1006(e), (f), 1007(b), 1008(b), 1009(d), 1010, 1024(b), (c)(2), 1028(g), Dec. 18, 1991, 105 Stat. 1915, 1916, 1926, 1930, 1932, 1934, 1962, 1968; Pub. L. 104-59, title III, §§ 302, 319(a)(2), 337(f), title IV, § 410, Nov. 28, 1995, 109 Stat. 578, 589, 603, 633; Pub. L. 105-130, §§ 4(a)(3), 5(b), Dec. 1, 1997, 111 Stat. 2556; Pub. L. 105-178, title I, §§ 1103(a)–(k), (o), 1212(a)(2)(A), June 9, 1998, 112 Stat. 118-125, 193; Pub. L. 105-206, title IX, § 9002(c)(3), July 22, 1998, 112 Stat. 835; Pub. L. 106-159, title I, § 101(b), Dec. 9, 1999, 113 Stat. 1751.)

#### REFERENCES IN TEXT

Section 201 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.), referred to in subsec. (a)(1), is section 201 of Pub. L. 89-4, Mar. 9, 1965, 79 Stat. 10, as amended, which was classified to the Appendix of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as section 14501 of Title 40, Public Buildings, Property, and Works, by Pub. L. 107-217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

The Clean Air Act, referred to in subsec. (b)(2)(B), (C), is act July 14, 1955, ch. 360, 69 Stat. 322, as amended. Subpart 2 of part D of title I of the Act is classified to subpart 2 (§ 7511 et seq.) of part D of subchapter I of chapter 85 of Title 42, The Public Health and Welfare. Subpart 3 of part D of title I of the Act is classified to subpart 3 (§ 7512 et seq.) of part D of subchapter I of chapter 85 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 7401 of Title 42 and Tables.

The date of enactment of this clause, referred to in subsec. (d)(2)(B)(i), is the date of enactment of Pub. L. 105-178, which was approved June 9, 1998.

Section 901(e) of the Taxpayer Relief Act of 1997, referred to in subsec. (l), is section 901(e) of Pub. L. 105-34, title IX, Aug. 5, 1997, 111 Stat. 872, which is set out as a note under section 6302 of Title 26, Internal Revenue Code.

The Transportation Equity Act for the 21st Century, referred to in subsec. (l), is Pub. L. 105-178, June 9, 1998, 112 Stat. 107, as amended. For complete classification of this Act to the Code, see section 1(a) of Pub. L. 105-178, set out as a Short Title of 1998 Amendment note under section 101 of this title and Tables.

#### CODIFICATION

Another section 1003(e) of Pub. L. 102-240, as added by Pub. L. 105-130, § 2(d), is not classified to the Code.

#### AMENDMENTS

1999—Subsec. (a)(1). Pub. L. 106-159, § 101(b)(1)–(3), substituted “exceed—” for “exceed 1½ percent of all sums so made available, as the Secretary determines necessary—” in introductory provisions, added introductory provisions of subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), substituted “; and” for the period at end of cl. (ii), and added subpar. (B).

Subsec. (a)(4). Pub. L. 106-159, § 101(b)(4), which directed amendment of subsec. (a)(1) by adding par. (4) at the end, was executed by adding par. (4) at the end of subsec. (a), to reflect the probable intent of Congress.

1998—Subsec. (a). Pub. L. 105-178, § 1103(a), added subsec. (a) and struck out former subsec. (a) which read as follows: “Whenever an apportionment is made of the sums authorized to be appropriated for expenditure on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System, the Secretary shall deduct a sum, in such amount not to exceed 3¾ per centum of all sums so authorized as the Secretary may deem necessary for administering the provisions of law to be financed from appropriations for the Federal-aid systems and for carrying on the research authorized by subsections (a) and (b) of section 307 of this title. In making such determination, the Secretary shall take into account the unexpended balance of any sums deducted for such purposes in prior years. The sum so deducted shall be available for expenditure from the unexpended balance of any appropriation made at any time for expenditure upon the Federal-aid systems, until such sum has been expended.”

Subsec. (a)(1). Pub. L. 105-178, § 1103(o)(1), as added by Pub. L. 105-206, § 9002(c)(3), struck out “under section 103” after “National Highway System program” in introductory provisions.

Subsec. (b). Pub. L. 105-178, § 1103(b), inserted heading and amended text of subsec. (b) generally. Prior to amendment, text related to Secretary’s apportionment among various States of sums authorized to be appropriated for surface transportation program, congestion mitigation and air quality improvement program, National Highway System, and Interstate System each fiscal year.

Subsec. (b)(1)(A). Pub. L. 105-178, § 1103(o)(2)(A), as added by Pub. L. 105-206, § 9002(c)(3), substituted “1998 through 2002” for “1999 through 2003”.

Subsec. (b)(4)(B)(i). Pub. L. 105-178, § 1103(o)(2)(B), as added by Pub. L. 105-206, § 9002(c)(3), substituted “on Interstate System routes open to traffic in each State” for “on lanes on Interstate System routes designated under—

“(I) section 103;

“(II) section 139(a) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century) before March 9, 1984 (other than routes on toll roads not subject to a Secretarial agreement under section 105 of the Federal-Aid Highway Act of 1978 (92 Stat. 2692)); and

“(III) section 139(c) (as in effect on the day before the date of enactment of the Transportation Equity Act for the 21st Century);

in each State”.

Subsec. (d)(1). Pub. L. 105-178, § 1103(c)(1), substituted “Before making an apportionment under subsection (b)(3) of this section for a fiscal year, the Secretary shall set aside \$500,000 for such” for “The Secretary shall expend, from administrative funds deducted under subsection (a), \$300,000 for each”.

Subsec. (d)(2). Pub. L. 105-178, § 1103(c)(2), added par. (2) and struck out former par. (2) which read as follows: “(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—(A) Before making an

apportionment of funds under subsection (b)(3) for a fiscal year, the Secretary shall set aside \$5,000,000 of the funds authorized to be appropriated for the surface transportation program for such fiscal year for elimination of hazards of railway-highway crossings in not to exceed 5 railway corridors selected by the Secretary in accordance with the criteria set forth in this paragraph.

“(B) A corridor selected by the Secretary under subparagraph (A) must include rail lines where railroad speeds of 90 miles per hour are occurring or can reasonably be expected to occur in the future.”

Subsec. (d)(3). Pub. L. 105-178, §1103(c)(2), struck out par. (3) which read as follows: “In making the determination required by paragraph (2)(A), the Secretary shall consider projected rail ridership volumes in such corridors, the percentage of the corridor over which a train will be capable of operating at its maximum cruise speed taking into account such factors as topography and other traffic on the line, projected benefits to nonriders such as congestion relief on other modes of transportation serving the corridors (including congestion in heavily traveled air passenger corridors), the amount of State and local financial support that can reasonably be anticipated for the improvement of the line and related facilities, and the cooperation of the owner of the right-of-way that can reasonably be expected in the operation of high speed rail passenger service in such corridors.”

Subsec. (e). Pub. L. 105-178, §1103(d), inserted heading, designated existing provisions as par. (1), inserted heading, struck out “(other than under subsection (b)(5) of this section)” after “apportioned hereunder” and “and research” before “pursuant to subsection (a) of this section” in first sentence, struck out second sentence which read “On October 1 of the year preceding the fiscal year for which authorized, the Secretary shall certify to each of the State highway departments the sums which he has apportioned under subsection (b)(5) of this section to each State for such fiscal year, and also the sums which he has deducted for administration and research pursuant to subsection (a) of this section.”, realigned margins, and added par. (2).

Subsec. (e)(1). Pub. L. 105-178, §1212(a)(2)(A)(ii), substituted “State transportation departments” for “State highway departments”.

Subsec. (e)(2). Pub. L. 105-178, §1103(o)(3), as added by Pub. L. 105-206, §9002(c)(3), substituted “104, 105, or 144” for “104, 144, or 157”.

Subsec. (f). Pub. L. 105-178, §1103(k)(1), inserted heading.

Subsec. (f)(1). Pub. L. 105-178, §1103(k)(2), which directed the amendment of par. (1) by striking out “, except that” and all that follows through “programs”, was executed by striking out “, except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the recreational trails program” after “section 134 of this title” to reflect the probable intent of Congress and the amendment by Pub. L. 105-178, §1103(e)(1). See below.

Pub. L. 105-178, §1103(k)(1), (6), inserted heading and realigned margins.

Pub. L. 105-178, §1103(e)(1), substituted “recreational trails program” for “Interstate construction and Interstate substitute programs”.

Subsec. (f)(2). Pub. L. 105-178, §1103(k)(3), (6), inserted heading and realigned margins.

Subsec. (f)(3). Pub. L. 105-178, §1103(e)(2), (k)(4), (6), inserted heading, substituted “section 120(b)” for “section 120(j) of this title”, and realigned margins.

Subsec. (f)(4). Pub. L. 105-178, §1103(k)(5), (6), inserted heading and realigned margins.

Subsec. (f)(5). Pub. L. 105-178, §1103(k)(6), realigned margins.

Subsec. (g). Pub. L. 105-178, §1212(a)(2)(A)(i), substituted “State transportation department” for “State highway department” wherever appearing.

Subsec. (h). Pub. L. 105-178, §1103(f), amended heading and text of subsec. (h) generally. Prior to amendment,

text read as follows: “In addition to funds made available from the National Recreational Trails Trust Fund, the Secretary shall obligate, from administrative funds (contract authority) deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) \$15,000,000 for each of fiscal years 1996 and 1997 and \$7,500,000 for the period of October 1, 1997, through March 31, 1998.”

Subsec. (i). Pub. L. 105-178, §1103(g), added subsec. (i) and struck out former subsec. (i) which read as follows:

“(i) WOODROW WILSON MEMORIAL BRIDGE.—

“(1) EXPENDITURE.—From any available administrative funds deducted under subsection (a), the Secretary shall obligate such sums as are necessary for each of fiscal years 1996 and 1997, and for the period of October 1, 1997, through March 31, 1998, for the rehabilitation of the Woodrow Wilson Memorial Bridge and for environmental studies and documentation, planning, preliminary engineering and design, and final engineering for a new crossing of the Potomac River as part of the Project, as defined by section 404 of the Woodrow Wilson Memorial Bridge Authority Act of 1995.

“(2) FEDERAL SHARE.—The Federal share of the cost of any project funded with amounts expended under paragraph (1) shall be 100 percent.”

Subsec. (j). Pub. L. 105-178, §1103(h), added subsec. (j) and struck out former subsec. (j) which read as follows:

“The Secretary shall submit to Congress not later than the 20th day of each calendar month which begins after the date of enactment of this subsection a report on (1) the amount of obligation, by State, for Federal-aid highways and the highway safety construction programs during the preceding calendar month, (2) the cumulative amount of obligation, by State, for that fiscal year, (3) the balance as of the last day of such preceding month of the unobligated apportionment of each State by fiscal year, and (4) the balance of unobligated sums available for expenditure at the discretion of the Secretary for such highways and programs for that fiscal year.”

Subsec. (k). Pub. L. 105-178, §1103(i), added subsec. (k).

Subsec. (l). Pub. L. 105-178, §1103(j), added subsec. (l).

1997—Subsec. (h). Pub. L. 105-130, §5(b), added Pub. L. 102-240, §1003(e). See 1991 Amendment note below.

Subsec. (i)(1). Pub. L. 105-130, §4(a)(3), inserted “, and for the period of October 1, 1997, through March 31, 1998,” after “fiscal years 1996 and 1997”.

1995—Subsec. (b)(2). Pub. L. 104-59, §319(a)(2), in second sentence of introductory provisions substituted “was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1994” for “is a nonattainment area (as defined in the Clean Air Act) for ozone” and in first sentence of closing provisions substituted “If the area was also” for “If the area is also”, and inserted “during any part of fiscal year 1994” after “area for carbon monoxide”.

Subsec. (g). Pub. L. 104-59, §302, substituted “exceed 50 percent” for “exceed 40 percent” in third sentence.

Subsecs. (h) to (j). Pub. L. 104-59, §§337(f), 410, added subsecs. (h) and (i) and redesignated former subsec. (h) as (j).

1991—Subsec. (a). Pub. L. 102-240, §1007(b)(2)(A), substituted “on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System” for “upon the Federal-aid systems” and was executed by making the substitution for the first reference to “upon the Federal-aid systems”.

Subsec. (a)(2), (3). Pub. L. 102-143, §333(c), repealed Pub. L. 101-516, §333. See 1990 Amendment note below.

Subsec. (b). Pub. L. 102-240, §1007(b)(2), in introductory provisions, substituted “paragraph (5)(A)” for “paragraphs (4) and (5)”, “and section 307” for “and sections 118(c) and 307(d)”, and “on the surface transportation program, the congestion mitigation and air quality improvement program, the National Highway System, and the Interstate System” for “upon the Federal-aid systems”.

Pub. L. 102-143, §333(c), repealed Pub. L. 101-516, §333. See 1990 Amendment note below.

Subsec. (b)(1). Pub. L. 102-240, §1006(e), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "For the Federal-aid primary system (including extensions in urban areas and priority primary routes)—

"Two-thirds according to the following formula: one-third in the ratio which the area of each State bears to the total area of all the States, one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census, and one-third in the ratio which the mileage of rural delivery routes and intercity mail routes where service is performed by motor vehicles in each State bear to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, as shown by a certificate of the Postmaster General, which he is directed to make and furnish annually to the Secretary; and one-third as follows: in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment."

Subsec. (b)(2). Pub. L. 102-240, §1008(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "For the Federal-aid secondary system:

"One-third in the ratio which the area of each State bears to the total area of all the States; one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural delivery and intercity mail routes where service is performed by motor vehicles, certified as above provided, in each State bears to the total mileage of rural delivery and intercity mail routes where service is performed by motor vehicles in all the States. No State (other than the District of Columbia) shall receive less than one-half of 1 per centum of each year's apportionment."

Subsec. (b)(3). Pub. L. 102-240, §1007(b)(1), which directed that par. (3) "is amended to read as follows", was executed by adding par. (3) to reflect the probable intent of Congress, because prior par. (3) had been repealed. See 1976 Amendment note below.

Subsec. (b)(5)(A). Pub. L. 102-240, §1001(c)-(e), substituted "1960 through 1996" for "1960 through 1990" wherever appearing, and "As soon as practicable after the date of the enactment of the Intermodal Surface Transportation Efficiency Act of 1991 for fiscal year 1992, and on October 1 of each of fiscal years 1993, 1994, and 1995, the Secretary shall make the apportionment required by this subparagraph for all States (other than Massachusetts) using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds, and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds" for "On October 1 of each of fiscal years 1988, 1989, 1990, and 1991, whenever Congress has not approved a cost estimate under this subparagraph, the Secretary shall make the apportionment required by this subparagraph using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds", and inserted before last sentence: "Notwithstanding any other provision of this subparagraph or any cost estimate approved or adjusted pursuant to this subparagraph, subject to the deductions under this

section, the amounts to be apportioned to the State of Massachusetts pursuant to this subparagraph for fiscal years 1993, 1994, 1995, and 1996 shall be as follows: \$450,000,000 for fiscal year 1993, \$800,000,000 for fiscal year 1994, \$800,000,000 for fiscal year 1995, and \$500,000,000 for fiscal year 1996."

Subsec. (b)(5)(B). Pub. L. 102-240, §1009(d), inserted "and routes on the Interstate System designated under section 139(a) of this title before March 9, 1984," in two places.

Subsec. (c). Pub. L. 102-240, §1006(f), added subsec. (c) and struck out former subsec. (c) which read as follows:

"(1) Subject to subsection (d), the amount apportioned in any fiscal year, commencing with the apportionment of funds authorized to be appropriated under subsection (a) of section 102 of the Federal-Aid Highway Act of 1956 (70 Stat. 374), to each State in accordance with paragraph (1) or (2) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such a transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest.

"(2) Subject to subsection (d), the amount apportioned in any fiscal year to each State in accordance with paragraph (1) or (6) of subsection (b) of this section may be transferred from the apportionment under one paragraph to the apportionment under the other paragraph if such transfer is requested by the State highway department and is approved by the Governor of such State and the Secretary as being in the public interest. Funds apportioned in accordance with paragraph (6) of subsection (b) of this section shall not be transferred from their allocation to any urbanized area of two hundred thousand population or more under section 150 of this title, without the approval of the local officials of such urbanized area."

Pub. L. 102-143, §333(c), repealed Pub. L. 101-516, §333. See 1990 Amendment note below.

Subsec. (d). Pub. L. 102-240, §1010, amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: "Each transfer of apportionments under subsection (c) of this section shall be subject to the following conditions:

"(1) In the case of transfers under paragraph (1), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

"(2) In the case of transfers under paragraph (2), the total of all transfers during any fiscal year to any apportionment shall not increase the original amount of such apportionment for such fiscal year by more than 50 per centum. Not more than 50 per centum of the original amount of an apportionment for any fiscal year shall be transferred to other apportionments.

"(3) No transfer shall be made from an apportionment during any fiscal year if during such fiscal year a transfer has been made to such apportionment.

"(4) No transfer shall be made to an apportionment during any fiscal year if during such fiscal year a transfer has been made from such apportionment."

Subsec. (f)(1). Pub. L. 102-240, §1024(b)(1)-(3), substituted "1 percent" for "one-half per centum", "programs authorized under this title" for "the Federal-aid systems", and "except that the amount from which such set aside is made shall not include funds authorized to be appropriated for the Interstate construction and Interstate substitute programs" for "except that in the case of funds authorized for apportionment on the Interstate System, the Secretary shall set aside that portion of such funds (subject to the overall limitation of one-half of 1 per centum) on October 1 of the year next preceding the fiscal year for which such funds are authorized for such System".

Subsec. (f)(3). Pub. L. 102-240, §1024(b)(4), (c)(2), substituted "120(j)" for "120" and struck out "designated by the State as being" after "organizations".

Subsec. (f)(4). Pub. L. 102-240, §1024(b)(5), inserted provisions relating to attainment of air quality standards and provisions relating to other factors necessary to provide appropriate distribution of funds to carry out section 134 and other requirements of Federal law.

Subsec. (f)(5). Pub. L. 102-240, §1024(b)(6), added par. (5).

Subsec. (g). Pub. L. 102-240, §1028(g), inserted before last sentence "A State may transfer not to exceed 40 percent of the State's apportionment under section 144 in any fiscal year to the apportionment of such State under subsection (b)(1) or subsection (b)(3) of this section. Any transfer to subsection (b)(3) shall not be subject to section 133(d)."

Subsec. (h). Pub. L. 102-240, §1003(e), as added by Pub. L. 105-130, §5(b), inserted before period at end "and \$7,500,000 for the period of October 1, 1997, through March 31, 1998".

1990—Subsec. (a)(2), (3). Pub. L. 101-516, §333 [part], which added pars. (2) and (3) to read as follows:

"(2) The Secretary shall withhold 10 per centum (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) on the first day of each fiscal year which begins after the fourth full calendar year following the date of enactment of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) A State meets the requirements of this paragraph if—

"(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

"(I) any violation of the Controlled Substances Act, or

"(II) any drug offense, and

"(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted, or

"(B) The Governor of the State—

"(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the date of enactment of this section a written certification stating that he is opposed to the enactment or enforcement in his State of a law described in subparagraph (A) relating to the revocation, suspension, issuance, or reinstatement of driver's licenses to convicted drug offenders; and

"(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i)."

was repealed by Pub. L. 102-143, §333(c). See Construction of 1990 Amendment note below and section 159(a)(2), (3) of this title.

Subsec. (b). Pub. L. 101-516, §333 [part], which amended subsec. (b) generally to read as follows:

"(1)(A) Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the sec-

ond fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under paragraph (1), (2), or (6) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

"(2) If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds originally apportioned under paragraph (1), (2), (5)(B), or (6) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b)."

was repealed by Pub. L. 102-143, §333(c). See Construction of 1990 Amendment note below and section 159(b) of this title.

Subsec. (c). Pub. L. 101-516, §333 [part], which amended subsec. (c) generally to read as follows: "For purposes of this section—

"(1) The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) The term 'drug offense' means any criminal offense which proscribes—

"(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance the possession of which is prohibited under the Controlled Substances Act, or

"(B) the operation of a motor vehicle under the influence of such a substance.

"(3) The term 'convicted' includes adjudicated under juvenile proceedings."

was repealed by Pub. L. 102-143, §333(c). See Construction of 1990 Amendment note below and section 159(c) of this title.

1987—Subsec. (b). Pub. L. 100-17, §114(e)(1), inserted "and the set asides authorized by subsection (f) of this section and sections 118(c) and 307(d) of this title" after "subsection (a) of this section" in introductory provisions.

Subsec. (b)(5)(A). Pub. L. 100-17, §102(b)(1), inserted after "September 30, 1990." the following: "The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments

made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1989. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal years 1991 and 1992. The Secretary shall make a revised estimate of the cost of completing the then designated Interstate System after taking into account all previous apportionments made under this section in the same manner as stated above, and transmit the same to the Senate and the House of Representatives within 10 days subsequent to January 2, 1991. Upon the approval by Congress, the Secretary shall use the Federal share of such approved estimates in making apportionments for the fiscal year 1993."

Pub. L. 100-17, § 102(b)(2), inserted at end "On October 1 of each of fiscal years 1988, 1989, 1990, and 1991, whenever Congress has not approved a cost estimate under this subparagraph, the Secretary shall make the apportionment required by this subparagraph using the Federal share of the last estimate submitted to Congress, adjusted to reflect (i) all previous credits, apportionments of interstate construction funds and lapses of previous apportionments of interstate construction funds, (ii) previous withdrawals of interstate segments, (iii) previous allocations of interstate discretionary funds, and (iv) transfers of interstate construction funds. If, before apportionment of funds under this subparagraph for any fiscal year, the Secretary and a State highway department agree that a portion of the apportionment to such State is not needed for such fiscal year, the amount of such portion shall be made available under section 118(b)(2) of this title."

Subsec. (g). Pub. L. 100-202 substituted "sections 130, 144, and 152 of this title" for "sections 144, 152, and 153 of this title, or section 203(d) of the Highway Safety Act of 1973," and struck out "All or any part of the funds apportioned in any fiscal year to a State in accordance with section 203(d) of the Highway Safety Act of 1973 from funds authorized in section 203(c) of such Act, may be transferred from that apportionment to the apportionment made under section 219 of this title if such transfer is requested by the State highway department and is approved by the Secretary after he has received satisfactory assurances from such department that the purposes of such section 203 have been met."

1981—Subsec. (b)(5)(A). Pub. L. 97-134, § 4(c), inserted provision that the Secretary shall include only those costs eligible for funds authorized by section 108(b) of the Federal Highway Act of 1956 in making the revised estimate of completing Interstate System for the purpose of transmitting it to the Congress within ten days subsequent to Jan. 2, 1983 or thereafter.

Subsec. (b)(5)(B). Pub. L. 97-134, § 5, inserted reference to reconstruction in opening par., substituted "55 per centum in the ratio that lane miles on the Interstate routes designated under sections 103 and 139(c) of this title (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 45 per centum in the ratio that vehicle miles traveled on lanes on the Interstate routes designated under sections 103 and 139(c) of this title" for "Seventy-five per centum in the ratio that lane miles in use for more than five years on the Interstate System (other than those on toll roads not subject to a Secretarial agreement provided for in section 105 of the Federal-Aid Highway Act of 1978) in each State bears to the total of all such lane miles in all States; and 25 per centum in the ratio that vehicle miles traveled on lanes in use for more than five years on the Interstate System" and inserted provision that no State excluding any State that has no interstate lane miles shall receive less than one-half of 1 per centum of the total apportionment made by this subparagraph for any fiscal year.

1978—Subsec. (b)(5)(A). Pub. L. 95-599, § 108, inserted provision relating to deadline for inclusion of estimate.

Subsec. (b)(5)(B). Pub. L. 95-599, § 116(b), substituted provisions limiting apportionment of funds ratio to

seventy-five percent of lane miles ratio and twenty-five of miles traveled ratio for provision establishing a straight ratio for such apportionment.

Subsec. (d). Pub. L. 95-599, § 109, substituted "50" for "40" and "20" wherever appearing.

Subsec. (h). Pub. L. 95-599, § 110, added subsec. (h).

1976—Subsec. (b). Pub. L. 94-280, § 112(a), substituted "On October 1 of each fiscal year" for "On or before January 1 next preceding the commencement of each fiscal year,".

Subsec. (b)(1). Pub. L. 94-280, § 112(b), inserted in introductory text "(including extensions in urban areas and priority primary routes)", made existing provisions applicable for a two-third apportionment of monies, striking out "in all the States at the close of the next preceding calendar year" before "as shown by a certificate of the Postmaster General" and inserted provision for a one-third apportionment in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

Subsec. (b)(3). Pub. L. 94-280, § 112(c), repealed provisions respecting apportionment of monies for extensions of the Federal-aid primary and Federal-aid secondary systems within urban areas in the ratio which the population in municipalities and other urban places of five thousand or more in each State bears to the total population in municipalities and other urban places of five thousand or more in all of the States as shown by the latest available Federal census.

Subsec. (b)(5)(A). Pub. L. 94-280, §§ 106(b), 107(b), 112(g), designated existing provisions as subpar. (A) and inserted introductory phrase "Except as provided in subparagraph B—"; substituted wherever appearing in introductory phrase and second and third sentences "1990" for "1979"; substituted provision for apportionment for fiscal year ending September 30, 1977, for prior provision for fiscal year ending June 30, 1977, substituted provision for apportionment for fiscal year ending September 30, 1978, in accordance with section 103 of Federal-Aid Highway Act of 1976, for prior provision for apportionment for fiscal year ending June 30, 1978, substituted provision for apportionment for fiscal year ending September 30, 1979, for prior provision for fiscal year ending June 30, 1979, provided for apportionment for fiscal year ending September 30, 1980, and inserted provisions for revised estimates of completion costs and transmittal thereof to Congress within ten days subsequent to January 2, 1979, 1981, 1983, 1985, and 1987 for apportionments for fiscal years ending September 30, 1981 and 1982, 1983 and 1984, 1985 and 1986, 1987 and 1988, and 1989 and 1990; and substituted in third sentence "October 1 of the year preceding the fiscal year for which authorized" for "a date as far in advance of the beginning of the fiscal year for which authorized as practicable but in no case more than eighteen months prior to the beginning of the fiscal year for which authorized".

Subsec. (b)(5)(B). Pub. L. 94-280, § 106(b), added subpar. (B).

Subsec. (c). Pub. L. 94-280, § 113(a), designated existing provisions as par. (1), substituted "Subject to subsection (d), the amount" for "Not more than 40 per centum of the amount" and "transferred from the apportionment under one paragraph to the apportionment under the other paragraph" for "transferred from the apportionment under one paragraph to the apportionment under any other of such paragraphs" and struck out former last sentence reading "The total of such transfers shall not increase the original apportionment under any of such paragraphs by more than 40 per centum.", and incorporated former subsec. (d) provisions in a new par. (2), substituting "Subject to subsection (d), the amount" for "Not more than 40 per centum of the amount" and paragraph "(1)" for "(3)" and striking out former last sentence reading "The total of such transfers shall not increase the original apportionment under either of such paragraphs by more than 40 per centum."

Subsec. (d). Pub. L. 94-280, § 113(a), inserted provisions respecting conditions for transfer of apportionments

under subsec. (c) of this section and struck out prior subsec. (d) provisions respecting transfer of certain apportionments, now incorporated in subsec. (c)(2) of this section.

Subsec. (e). Pub. L. 94-280, § 112(d), in first sentence, substituted "On October 1" for "On or before January 1 preceding the commencement" and inserted "(other than under subsection (b)(5) of this section)" after "hereunder" and inserted certification provision respecting sums apportioned under subsec. (b)(5) of this section to each State highway department and amount of deductions for administration and research; and inserted provisions advising the States not less than ninety days before the beginning of the fiscal year of amounts to be apportioned to the States and in the case of the Interstate System ninety days prior to the apportionment of funds.

Subsec. (f)(1). Pub. L. 94-280, § 112(e), substituted "On October 1" for "On or before January 1 next preceding the commencement" and inserted exception provision.

Subsec. (f)(3). Pub. L. 94-280, § 112(f), authorized State use of apportioned funds to finance transportation planning outside of urbanized areas.

Subsec. (g). Pub. L. 94-280, § 206, increased percentage limitation to "40 per centum" from "30 per centum"; authorized approval by Secretary of transfer of apportionments when requested by the State highway department and approved by the Secretary as being in the public interest; and provided for transfer of apportionments under section 203(c) and (d) of the Highway Safety Act of 1973, to apportionments under section 219 of this title, and clarified the authority for apportionment of Highway Trust Fund funds.

1973—Subsec. (b)(1). Pub. L. 93-87, § 111(a)(1), (2), substituted "intercity mail routes where service is performed by motor vehicles" for "star routes" in two places, "one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States" for "one-third in the ratio which the population of each State bears to the total population of all the States", and "No State (other than the District of Columbia) shall receive" for "No State shall receive".

Subsec. (b)(2). Pub. L. 93-87, § 111(a)(1), (3), substituted "intercity mail routes where service is performed by motor vehicles" for "star routes" in two places, "one-third in the ratio which the population of rural areas of each State bears to the total population of rural areas of all of the States" for "one-third in the ratio which the rural population of each State bears to the total rural population of all the States", and "No State (other than the District of Columbia) shall receive" for "No State shall receive".

Subsec. (b)(5). Pub. L. 93-87, § 106(b), extended from 1976 to 1979, the date for completion of the Interstate System; and authorized the Secretary to use the Federal share of the approved estimate in making apportionments for fiscal years ending June 30, 1976, 1977, 1978, and 1979, reenacted requirement that Secretary make a revised estimate of cost of completing the then designated Interstate System, substituting Jan. 2, 1975, for Jan. 2, 1974, as the commencing date for the ten day period for transmittal of the revised cost estimate, and reenacted provisions of last sentence without change, respectively.

Subsec. (b)(6). Pub. L. 93-87, § 111(a)(4), substituted "urban areas" for "urbanized areas" in two places and mandated that no State shall receive less than one-half of 1 per centum of each year's apportionment.

Subsec. (c). Pub. L. 93-87, § 111(a)(5), (7), substituted "40" for "20" per centum in two places and struck out reference to par. (3) of subsec. (b) of this section and provision of last sentence that nothing contained in subsec. (c) shall alter or impair the authority contained in subsec. (d) of this section.

Subsec. (d). Pub. L. 93-87, § 111(a)(6), substituted provisions respecting transfer of apportionment of funds under pars. (3) and (6) of subsec. (b) of this section from one paragraph to the other when requested by the State highway department and approved as in the public in-

terest by the Governor of the State and the Secretary for former provisions which authorized expenditure of subsec. (b)(2) funds apportioned for Federal-aid secondary system to a State for projects on another Federal-aid system when the State highway department and the Secretary were in joint agreement as to such other expenditure.

Subsec. (f). Pub. L. 93-87, § 112, incorporated provisions of former subsec. (f) that "Not to exceed 50 per centum of the amounts apportioned in accordance with paragraph (3) of subsection (b) of this section may be expended for projects on the Federal-aid urban system" in provisions designated as par. (1) and stating that "On or before January 1 next preceding the commencement of each fiscal year, the Secretary, after making the deduction authorized by subsection (a) of this section, shall set aside not to exceed one-half per centum of the remaining funds authorized to be appropriated for expenditure upon the Federal-aid systems, for the purpose of carrying out the requirements of section 134 of this title." and added pars. (2)–(4).

Subsec. (g). Pub. L. 93-87, § 227, added subsec. (g).

1970—Subsec. (b)(5). Pub. L. 91-605, § 104(b), extended from 1974 to 1976 the date for completion of the Interstate System, substituted "on April 20, 1970" for "within ten days subsequent to January 2, 1970" as the date for submission by the Secretary to Congress of a revised completion cost estimate of the Interstate System, struck out reference of finality as applied to this estimate, deleted June 30, 1974 from the enumerated list of fiscal years for which the Secretary shall use the Federal share of the approved 1970 estimate in making apportionments, inserted provision directing the Secretary to submit to Congress a revised Interstate System completion cost estimate within 10 days from Jan. 2, 1972 with apportionments to be made by the Secretary for use in the fiscal years 1974 and 1975 from the Federal share of the approved estimate, and inserted provision directing the Secretary to submit to Congress another cost estimate within 10 days from Jan. 2, 1974 to be used for making apportionments for the fiscal year 1976.

Subsec. (b)(6). Pub. L. 91-605, § 106(c)(2), added par. (6).

Subsec. (f). Pub. L. 91-605, § 106(c)(1), added subsec. (f).

1968—Subsec. (b)(5). Pub. L. 90-495 extended from 1972 to 1974 the date for completion of the Interstate System, added the fiscal year ending June 30, 1971, to the enumeration of fiscal years for which the Secretary may use the Federal share of approval estimates in making apportionments, substituted January 2, 1970, for January 2, 1969, as the date for commencement of the 10-day period during which the Secretary shall transmit to Congress his final revised estimate of the cost of completing the Interstate system, and added the fiscal years ending June 30, 1973, and June 30, 1974, to the enumerated list of fiscal years for which the Secretary shall use the Federal share of the approved estimate in making apportionments.

1966—Subsec. (b)(5). Pub. L. 89-574 substituted "1972" for "1971" wherever appearing except in provision requiring the Secretary, with the approval of Congress, to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1971, and, in such provision, retained the authority of the Secretary to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1971, but extended the authority of the Secretary to use the Federal share of the approved estimates in making apportionments for the fiscal year ending June 30, 1972, as well.

1964—Subsec. (b)(5). Pub. L. 88-423 substituted "January 2, 1961" for "January 2, 1962".

1963—Subsec. (b)(3). Pub. L. 88-157, § 2, struck out provision which considered Connecticut and Vermont towns as municipalities for the purposes of par. (3) regardless of their incorporated status.

Subsec. (b)(5). Pub. L. 88-157, § 3, substituted "1971" for "1969" in introductory text and 3d sentence; inserted "For the fiscal years 1960 through 1966," and substituted "such State" for "each State" in 1st sentence;

inserted 2d sentence respecting apportionment for fiscal years 1967 through 1971; substituted in 9th sentence “January 2, 1965” for “January 2, 1966, and annually thereafter through and including January 2, 1968”; substituted in 10th sentence “Upon the approval of such estimate by the Congress” for “Upon approval of any such estimate by the Congress by concurrent resolution” and “fiscal years ending June 30, 1967; June 30, 1968; and June 30, 1969” for “fiscal year which begins next following the fiscal year in which such report is transmitted to the Senate and the House of Representatives” and inserted “the Federal share of” before “such approved estimate”; and inserted 11th through 14th sentences, respecting revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1968, apportionment for fiscal year ending June 30, 1970, final revised cost estimate for completion of the Interstate System and its submission to Congress within 10 days after Jan. 2, 1969, and apportionment for fiscal year ending June 30, 1971, respectively.

1962—Subsec. (b)(1). Pub. L. 87-866 substituted “preceding calendar year” for “preceding fiscal year”.

1960—Subsec. (b)(5). Pub. L. 86-657 struck out provisions which required, in making the estimates of cost for completing the Interstate System, exclusion of the cost of completing any mileage designated from the one thousand additional miles authorized by section 108(1) of the Federal-Aid Highway Act of 1956.

1959—Subsec. (b). Pub. L. 86-70 struck out “, except that only one-third of the area of Alaska shall be included” after “total area of all States” in pars. (1) and (2).

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-159 effective Jan. 1, 2000, see section 107(a) of Pub. L. 106-159, set out as a note under section 104 of Title 49, Transportation.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Title IX of Pub. L. 105-206 effective simultaneously with enactment of Pub. L. 105-178 and to be treated as included in Pub. L. 105-178 at time of enactment, and provisions of Pub. L. 105-178, as in effect on day before July 22, 1998, that are amended by title IX of Pub. L. 105-206 to be treated as not enacted, see section 9016 of Pub. L. 105-206, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1991 AMENDMENT

Section 1100 of title I of Pub. L. 102-240 provided that: “(a) GENERAL RULE.—This title [see Tables for classification], including the amendments made by this title, shall take effect on the date of the enactment of this Act [Dec. 18, 1991].

“(b) APPLICABILITY.—The amendments made by this title shall apply to funds authorized to be appropriated or made available after September 30, 1991, and, except as otherwise provided in subsection (c), shall not apply to funds appropriated or made available on or before September 30, 1991.

“(c) UNOBLIGATED BALANCES.—

“(1) IN GENERAL.—Unobligated balances of funds apportioned to a State under sections 104(b)(1), 104(b)(2), 104(b)(5)(B), and 104(b)(6) of title 23, United States Code, before October 1, 1991, shall be available for obligation in that State under the law, regulations, policies and procedures relating to the obligation and expenditure of those funds in effect on September 30, 1991.

“(2) TRANSFERABILITY.—

“(A) PRIMARY SYSTEM.—A State may transfer unobligated balances of funds apportioned to the State for the Federal-aid primary system before October 1, 1991, to the apportionment to such State under section 104(b)(1) or 104(b)(3) of title 23, United States Code, or both.

“(B) SECONDARY AND URBAN SYSTEM.—A State may transfer unobligated balances of funds appor-

tioned to the State for the Federal-aid secondary system or the Federal-aid urban system before October 1, 1991, to the apportionment to such State under section 104(b)(3) of such title.

“(C) APPLICABILITY OF CERTAIN LAWS, REGULATIONS, POLICIES, AND PROCEDURES.—Funds transferred under this paragraph shall be subject to the laws, regulations, policies, and procedures relating to the apportionment to which they are transferred.”

#### EFFECTIVE DATE OF 1976 AMENDMENT; APPLICABLE PROVISIONS DEPENDENT ON FISCAL FUND AUTHORIZATIONS

Section 113(b) of Pub. L. 94-280 provided that: “The amendment made by subsection (a) of this section [amending this section] shall take effect on July 1, 1976, and shall be applicable with respect to funds authorized for the fiscal year ending September 30, 1977, and for subsequent fiscal years. With respect to the fiscal year 1976 and earlier fiscal years, the provisions of subsections (c) and (d) of section 104 of title 23, United States Code, as in effect on June 30, 1976, shall remain applicable to funds authorized for such years.”

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-495 effective Aug. 23, 1968, see section 37 of Pub. L. 90-495, set out as a note under section 101 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Section 10(b) of Pub. L. 87-866 provided that: “The amendment made by subsection (a) of this section [amending this section] shall be applicable only with respect to apportionments made after the date of enactment of this Act [Oct. 23, 1962].”

#### EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-70 effective July 1, 1959, see section 21(e) of Pub. L. 86-70, set out as a note under section 101 of this title.

#### CONSTRUCTION OF 1990 AMENDMENT

Section 333(d) of Pub. L. 102-143 provided that: “The amendments made by section 333 of the Department of Transportation and Related Agencies Appropriations Act, 1991 (104 Stat. 2184-2186) [Pub. L. 101-516, amending this section and enacting provisions formerly set out as a note below] shall be treated as having not been enacted into law.”

#### ADJUSTMENTS FOR SURFACE TRANSPORTATION EXTENSION ACT OF 1997

Pub. L. 105-178, title I, § 1103(m), June 9, 1998, 112 Stat. 126, provided that:

“(1) IN GENERAL.—Notwithstanding any other provision of law and subject to section 2(c) of the Surface Transportation Extension Act of 1997 [Pub. L. 105-130, set out below], the Secretary shall ensure that the total apportionments for a State (other than Massachusetts) for fiscal year 1998 made under the Transportation Equity Act for the 21st Century [Pub. L. 105-178, see Tables for classification] (including amendments made by such Act) shall be reduced by the amount apportioned to such State (other than Massachusetts) under section 1003(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102-240, 111 Stat. 2553].

“(2) REPAYMENT OF TRANSFERRED FUNDS.—The Secretary shall ensure that any apportionments made to a State for fiscal year 1998 and adjusted under paragraph (1) shall first be used to restore in accordance with section 3(c) of the Surface Transportation Extension Act of 1997 [Pub. L. 105-130, 111 Stat. 2555] any funds that a State transferred under section 3 of such Act.

“(3) INSUFFICIENT FUNDS FOR REPAYMENT.—If a State has insufficient funds apportioned in fiscal year 1998 under the Transportation Equity Act for the 21st Cen-

ture (including amendments made by such Act) to make the adjustment required by paragraph (1), then the Secretary shall make an adjustment to any funds apportioned to such State in fiscal year 1999.

“(4) ALLOCATED PROGRAMS.—Notwithstanding any other provision of law, amounts made available for fiscal year 1998 by the Transportation Equity Act for the 21st Century (including amendments made by such Act) for a program that is continued by both of sections 4, 5, 6, and 7 of the Surface Transportation Extension Act of 1997 (including amendments made by such sections) [Pub. L. 105-130, see Tables for classification] and the Transportation Equity Act for the 21st Century (including amendments made by such Act) shall be reduced by the amount made available by such sections 4, 5, 6, and 7 for such programs.

“(5) TREATMENT OF STEA OBLIGATION AUTHORITY.—The amount of obligation authority made available under section 2(e) of the Surface Transportation Extension Act of 1997 [Pub. L. 105-130, set out below] shall be considered to be an amount of obligation authority made available for fiscal year 1998 under section 1102(a) of this Act [set out above].”

#### ADVANCES

Section 2 of Pub. L. 105-130 provided that:

“(a) IN GENERAL.—The Secretary of Transportation (referred to in this Act as the ‘Secretary’) shall apportion funds made available under section 1003(d) of the Intermodal Surface Transportation Efficiency Act of 1991 [see 111 Stat. 2553] to each State in the ratio that—

“(1) the State’s total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; bears to

“(2) all States’ total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

“(b) PROGRAMMATIC DISTRIBUTIONS.—

“(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, minimum allocation under section 157 of title 23, United States Code, Interstate reimbursement under section 160 of that title, the donor State bonus under section 1013(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1940) [Pub. L. 102-240, set out as a note under section 157 of this title], hold harmless under section 1015(a) of that Act (105 Stat. 1943) [set out below], 90 percent of payments adjustments under section 1015(b) of that Act (105 Stat. 1944) [set out below], section 1015(c) of that Act (105 Stat. 1944) [set out below], an amount equal to the funds provided under sections 1103 through 1108 of that Act (105 Stat. 2027) [see Tables for classification], and funding restoration under section 202 of the National Highway System Designation Act of 1995 (109 Stat. 571).

“(2) IN GENERAL.—The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying—

“(A) the amount apportioned to the State under subsection (a); by

“(B) the ratio that—

“(i) the amount of funds apportioned for the item, or allocated under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2027), to the State for fiscal year 1997; bears to

“(ii) the total of the amount of funds apportioned for the items, and allocated under those sections, to the State for fiscal year 1997.

“(3) USE OF FUNDS.—Amounts apportioned to a State under subsection (a) attributable to sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 shall be available to the

State for projects eligible for assistance under chapter 1 of title 23, United States Code.

“(4) ADMINISTRATION.—Funds authorized by the amendment made by subsection (d) shall be administered as if they had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deduction under section 104(a) of title 23, United States Code, the set-asides under section 104(b)(1) of that title for the territories and under section 104(f)(1) of that title for metropolitan planning, and the expenditure required under section 104(d)(1) of that title shall not apply to those funds.

“(c) REPAYMENT FROM FUTURE APPORTIONMENTS.—

“(1) IN GENERAL.—The Secretary shall reduce the amount that would, but for this section, be apportioned to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 1998 under a law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act [Dec. 1, 1997] by the amount that is apportioned to each State under subsection (a) and section 5(f) [Pub. L. 105-130, 111 Stat. 2558] for each such program.

“(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

“(d) AUTHORIZATION OF CONTRACT AUTHORITY.—[Amended section 1003 of Pub. L. 102-240.]

“(e) LIMITATION ON OBLIGATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), after the date of enactment of this Act [Dec. 1, 1997], the Secretary shall allocate to each State an amount of obligation authority made available under the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66 [see Tables for classification]) that is—

“(A) equal to the greater of—

“(i) the State’s unobligated balance, as of October 1, 1997, of Federal-aid highway apportionments subject to any limitation on obligations; or

“(ii) 50 percent of the State’s total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program; but

“(B) not greater than 75 percent of the State’s total fiscal year 1997 obligation authority for funds apportioned for the Federal-aid highway program.

“(2) LIMITATION ON AMOUNT.—The total of all allocations under paragraph (1) shall not exceed \$9,786,275,000.

“(3) TIME PERIOD FOR OBLIGATIONS OF FUNDS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not obligate any funds for any Federal-aid highway program project after May 1, 1998, until the earlier of the date of enactment of a multiyear law reauthorizing the Federal-aid highway program or July 1, 1998.

“(B) REOBLIGATION.—Subparagraph (A) shall not preclude the reobligation of previously obligated funds.

“(C) DISTRIBUTION OF REMAINING OBLIGATION AUTHORITY.—On the earlier of the date of enactment of a law described in subparagraph (A) or July 1, 1998, the Secretary shall distribute to each State any remaining amounts of obligation authority for Federal-aid highways and highway safety construction programs by allocation in accordance with section 310(a) of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66) [set out below].

“(D) CONTRACT AUTHORITY.—No contract authority made available to the States prior to July 1, 1998, shall be obligated after that date until such time as a multiyear law reauthorizing the Federal-aid highway program has been enacted.

“(4) TREATMENT OF OBLIGATIONS.—Any obligation of an allocation of obligation authority made under this subsection shall be considered to be an obligation for

Federal-aid highways and highway safety construction programs for fiscal year 1998 for the purposes of the matter under the heading ‘(LIMITATION ON OBLIGATIONS)’ under the heading ‘FEDERAL-AID HIGHWAYS’ in title I of the Department of Transportation and Related Agencies Appropriations Act, 1998 (Public Law 105-66 [111 Stat. 1431]).”

#### EFFECT OF LIMITATION ON APPORTIONMENT

Section 319(c) of Pub. L. 104-59 provided that: “Notwithstanding any other provision of law, for each of fiscal years 1996 and 1997, the amendments made by subsection (a) [amending this section and section 149 of this title] shall not affect any apportionment adjustments under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943) [Pub. L. 102-240, set out below].”

#### COMPLETION OF INTERSTATE SYSTEM

Section 1001(a) of Pub. L. 102-240 provided that: “Congress declares that the authorizations of appropriations and apportionments for construction of the Dwight D. Eisenhower National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] made by this section (including the amendments made by this section [amending this section and section 101 of this title]) are the final authorizations of appropriations and apportionments for completion of construction of such System.”

#### APPORTIONMENT ADJUSTMENTS

Section 1015 of Pub. L. 102-240 provided that:

“(a) HOLD HARMLESS.—

“(1) GENERAL RULE.—The amount of funds which, but for this subsection, would be apportioned to a State for each of the fiscal years 1992 through 1997 under section 104(b)(3) of title 23, United States Code, for the surface transportation program shall be increased or decreased by an amount which, when added to or subtracted from the aggregate amount of funds apportioned to the State for such fiscal year and funds allocated to the State for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, under section 202 of such title for the Federal lands highways program, section 160 of such title for the reimbursement program, and section 1013(c) of this Act [23 U.S.C. 157 note] for the donor State bonus program, will result in the percentage of amounts so apportioned and allocated to all States being equal to the percentage listed for such State in paragraph (2).

“(2) STATE PERCENTAGES.—For purposes of paragraph (1) the percentage of amounts apportioned and allocated which are referred to in paragraph (1) for each State, and the District of Columbia shall be determined in accordance with the following table:

States	Adjustment Percentage
Alabama .....	1.74
Alaska .....	1.28
Arizona .....	1.49
Arkansas .....	1.20
California .....	9.45
Colorado .....	1.35
Connecticut .....	1.78
Delaware .....	0.41
District of Columbia .....	0.53
Florida .....	4.14
Georgia .....	2.97
Hawaii .....	0.57
Idaho .....	0.69
Illinois .....	3.72
Indiana .....	2.20
Iowa .....	1.25
Kansas .....	1.14

Kentucky .....	1.52
Louisiana .....	1.55
Maine .....	0.50
Maryland .....	1.69
Massachusetts .....	4.36
Michigan .....	2.81
Minnesota .....	1.58
Mississippi .....	1.15
Missouri .....	2.23
Montana .....	0.97
Nebraska .....	0.83
Nevada .....	0.64
New Hampshire .....	0.48
New Jersey .....	2.87
New Mexico .....	1.08
New York .....	5.37
North Carolina .....	2.65
North Dakota .....	0.62
Ohio .....	3.73
Oklahoma .....	1.42
Oregon .....	1.26
Pennsylvania .....	4.38
Rhode Island .....	0.54
South Carolina .....	1.41
South Dakota .....	0.71
Tennessee .....	2.08
Texas .....	6.36
Utah .....	0.77
Vermont .....	0.44
Virginia .....	2.27
Washington .....	2.06
West Virginia .....	0.94
Wisconsin .....	1.70
Wyoming .....	0.67

“(b) 90 PERCENT OF PAYMENT ADJUSTMENTS.—

“(1) GENERAL RULE.—For each of fiscal years 1992 through 1997, the Secretary shall allocate among the States amounts sufficient to ensure that a State’s total apportionments for such fiscal year and allocations for the prior fiscal year under section 104(b) of such title, section 103(e)(4) for Interstate highway substitute, section 144 of such title, section 157 of such title, section 202 of such title for the Federal lands highways program, section 1013(c) of this Act [23 U.S.C. 157 note] for the donor State bonus program, section 160 of such title for the reimbursement program, and subsection (a) of this section for hold harmless is not less than 90 percent of the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than Mass Transit Account) in the latest fiscal year in which data is available.

“(2) TRANSFER OF ALLOCATED AMOUNTS TO STP APPORTIONMENT.—Subject to subsection (d) of this section, the Secretary shall transfer amounts allocated to a State pursuant to paragraph (1) to the apportionment of such State under section 104(b)(3) for the surface transportation program.

“(c) ADDITIONAL ALLOCATION.—Subject to subsection (d) of this section, the Secretary shall allocate to the State of Wisconsin \$40,000,000 for fiscal year 1992 and \$47,800,000 for each of fiscal years 1993 through 1997 and transfer such amounts to the apportionment of such State under section 104(b)(3) of title 23, United States Code, for the surface transportation program.

“(d) LIMITATION ON APPLICABILITY OF CERTAIN REQUIREMENTS OF STP PROGRAM.—The following provisions of section 133 of title 23, United States Code, shall not apply to ½ of the amounts added under subsection (a) to the apportionment of the State for the surface transportation program and of amounts transferred under subsections (b) and (c) to such apportionment:

“(1) Subsection (d)(1).

“(2) Subsection (d)(2).

“(3) Subsection (d)(3).

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section such sums as may be necessary for each of fiscal years 1992 through 1997.”

#### ALLOCATION FORMULA STUDY

Section 1098 of Pub. L. 102-240, as amended by Pub. L. 104-59, title III, § 325(g), Nov. 28, 1995, 109 Stat. 592, directed General Accounting Office in conjunction with Bureau of Transportation Statistics to conduct thorough study and recommend to Congress within 2 years after Dec. 18, 1991, a fair and equitable apportionment formula for allocation of Federal-aid highway funds that best directs highway funds to places of greatest need for highway maintenance and enhancement based on extent of these highway systems, their present use, and increases in their use, with results of study to be presented to Congress on or before Jan. 1, 1994, and to be considered by Congress in the 1996 reauthorization of surface transportation program.

#### STUDY ON IMPACT OF CLIMATIC CONDITIONS

Pub. L. 102-240, title I, §§ 1101-1102, Dec. 18, 1991, 105 Stat. 2027, directed Secretary of Transportation to conduct a study of effects of climatic conditions on costs of highway construction and maintenance and to transmit to Congress, not later than Sept. 30, 1993, a report on the results of the study, prior to repeal by Pub. L. 105-362, title XV, § 1501(d), Nov. 10, 1998, 112 Stat. 3294.

#### WITHHOLDING OF FIVE PER CENTUM OF FUNDS FOR STATES FAILING TO MEET REQUIREMENTS

Section 333 [part] of Pub. L. 101-516, which for each fiscal year directed Secretary of Transportation to withhold five per centum of the amount required to be apportioned to any State under each of paragraphs (1), (2), (5), and (6) of section 104(b) of this title on the first day of each fiscal year which begins after the second full calendar year following Nov. 5, 1990, if State does not meet the requirements of paragraph (3) on such date, was repealed by Pub. L. 102-143, title III, § 333(c), Oct. 28, 1991, 105 Stat. 947.

#### REDUCTION IN AMOUNT STATES FAILING TO AUTHORIZE TAX-BASED SOURCES OF REVENUE MAY OBLIGATE

Section 341 of Pub. L. 101-516, as amended by Pub. L. 102-240, title III, § 3003(b), Dec. 18, 1991, 105 Stat. 2088, provided that:

“(a) Notwithstanding any other provision of law, for the period January 1, 1992, through December 31, 1992, the Secretary of Transportation shall reduce the aggregate amount which a State may obligate for Federal-aid highways and highway safety construction programs by 25 percent if such State has a public authority which provides mass transportation for an urbanized area of such State with a population of 3,000,000 or more as determined under the 1980 decennial census of the United States, and if by October 1, 1991—

“(1) laws of such State do not authorize a general tax-based source of revenues to take effect on or before January 1, 1992, dedicated to paying the non-Federal share of projects for mass transportation eligible for assistance under the Federal Transit Act [now 49 U.S.C. 5301 et seq.]; or

“(2) the laws of such State do not authorize the establishment of regional or local tax-based sources of revenues dedicated to pay such non-Federal share or for paying operating expenses of mass transit service so as to satisfy financial capacity standards as may be required by the Secretary of Transportation.

“(b) For purposes of this section, the terms ‘mass transportation’, ‘State’, and ‘urbanized areas’ have the meaning such terms have under section 12 of the Federal Transit Act [now 49 U.S.C. 5302].

“(c) Any withholding defined under this section shall be waived if the Governor of the State—

“(1) submits to the Secretary by October 1, 1991, a written certification stating that he is opposed to the

enactment in his State of a law described in subsections (a)(1) and (2) and that funding as described in subsections (a)(1) and (2) would not improve public transportation safety; and

“(2) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution by a simple majority expressing its opposition to a law described in subsections (a)(1) and (2).

“(d) This section shall remain in effect until December 31, 1992.”

Pub. L. 102-27, title IV, § 404(b), Apr. 10, 1991, 105 Stat. 155, provided that: “The Secretary of Transportation shall restore any reductions in obligation authority made under section 329 [of Pub. L. 101-516, formerly set out below] prior to its repeal.”

Similar provisions were contained in Pub. L. 101-516, title III, § 329, Nov. 5, 1990, 104 Stat. 2183, which was repealed by Pub. L. 102-27, title IV, § 404(a), Apr. 10, 1991, 105 Stat. 155.

#### IMPLEMENTATION OF CERTAIN PRESIDENTIAL ORDERS REQUIRING PERCENTAGE REDUCTION FOR FEDERAL-AID HIGHWAY, MASS TRANSIT, AND HIGHWAY SAFETY PROGRAMS

Section 136 of Pub. L. 100-17 provided that: “In implementing any order issued by the President which provides for or requires a percentage reduction in new budget authority, unobligated balances, obligated balances, new loan guarantee commitments, new direct loan obligations, spending authority, or obligation limitations for the Federal-aid highway, mass transit and highway safety programs and with respect to which the budget account activity as identified in the program and financing schedule contained in the Appendix to the Budget of the United States Government for such programs includes more than one specific highway, mass transit, or highway safety program or project for which budget authority is provided by this Act or an amendment made by this Act [see Short Title of 1987 Amendment note set out under section 101 of this title], the Secretary shall apply the percentage reduction equally to each such specific program or project.”

#### FEDERAL-AID PRIMARY FORMULA FOR AMOUNTS AUTHORIZED FOR FISCAL YEARS 1983 THROUGH 1991

Pub. L. 97-424, title I, § 108(a)-(e), Jan. 6, 1983, 96 Stat. 2103, as amended by Pub. L. 100-17, title I, §§ 107, 133(a)(1), Apr. 2, 1987, 101 Stat. 146, 170, provided that:

“(a) Notwithstanding section 104(b)(1) of title 23, United States Code, and any other provision of law, amounts authorized for fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991 for the Federal-aid primary system (including extensions in urban areas and priority primary routes) shall be apportioned in accordance with this section. The Secretary of Transportation shall determine for each State the higher of (1) the amount which would be apportioned to such State under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be apportioned to such State under the following formula:

“One-half in the ratio which the population of rural areas of each State bears to the total population of rural areas of all the States as shown by the latest available Federal census and one-half in the ratio which the population in urban areas in each State bears to the total population in urban areas in all the States as shown by the latest Federal census.

“(b) The Secretary of Transportation shall, for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991, determine the total of the amounts determined for each State under subsection (a) and shall determine the ratio which the total amount authorized for such fiscal year for the Federal-aid primary system bears to the total of such amounts determined under subsection (a) for such fiscal year.

“(c) The amount which shall be apportioned to each State for the Federal-aid primary system (including extensions in urban areas and priority primary routes)

for each of the fiscal years 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, and 1991 shall be the amount determined for such State under subsection (a), multiplied by the ratio determined under subsection (b).

“(d) Notwithstanding any other provision of law, no State shall receive an apportionment under this section for any fiscal year which is less than the lower of (1) the amount which the State would be apportioned for such fiscal year under section 104(b)(1) of title 23, United States Code, and (2) the amount which would be determined under the formula set forth in subsection (a). Notwithstanding any other provision of law, no State shall receive for any such fiscal year less than one-half of 1 per centum of the total apportionment under this section for such fiscal year. For purposes of this paragraph and subsection (b) of section 103 of title 23, United States Code, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands shall be considered together as one State. The State consisting of the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Mariana Islands shall not receive less than one-half of 1 per centum of each year’s apportionment. There are authorized to be appropriated such sums as may be necessary out of the Highway Trust Fund to carry out this subsection. Funds authorized by this subsection shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code.

“(e) Amounts apportioned under this section shall be deemed to be amounts apportioned under section 104(b)(1) of title 23, United States Code, for purposes of such title and all other provisions of law. Terms used in this section shall have the same meaning such terms have in chapter 1 of title 23, United States Code.”

**MATCHING FUND WAIVER FOR PERIOD JANUARY 6, 1983, THROUGH SEPTEMBER 30, 1984**

Pub. L. 97-424, title I, §145, Jan. 6, 1983, 96 Stat. 2130, provided that:

“(a) Notwithstanding any other provision of law, the Federal share of any qualifying project approved by the Secretary of Transportation under section 106(a) [section 106(a) of this title], and of any qualifying project for which the United States becomes obligated to pay under section 117, of title 23, United States Code, during the period beginning on the date of enactment of this Act [Jan. 6, 1983] and ending September 30, 1984, shall be such percentage of the construction cost as the State highway department requests, up to and including 100 per centum.

“(b) For purposes of this section, the term ‘qualifying project’ means a project approved by the Secretary of Transportation under section 106(a) of title 23, United States Code, or a project for which the United States becomes obligated to pay under section 117 of title 23, United States Code, for which the Governor of the State submitting the project has certified, in accordance with regulations established by the Secretary of Transportation, that sufficient funds are not available to pay the cost of the non-Federal share of the project.

“(c) The total amount which may be obligated for qualifying projects in any State under subsection (a) shall not be greater than the excess of—

“(1) the sum of the amount of obligation authority distributed to such State for fiscal year 1983 under section 104(b) of this Act [set out above], plus the amount, if any, available to such State under section 150 of this Act [enacting section 157 of this title], pertaining to minimum allocation, over

“(2) the amount of obligation authority distributed to such State for fiscal year 1982 under section 3(b) of the Federal-Aid Highway Act of 1981 [set out below].

“(d) The total amount of such increases in the Federal share as are made pursuant to subsection (a) for any State shall be repaid to the United States by such State on or before September 30, 1984. Such payments shall be deposited in the Highway Trust Fund and such repaid amounts shall be credited to the appropriate apportionment accounts of such State.

“(e) If a State has not made the repayment as required by subsection (d) of this section, the Secretary shall deduct from funds apportioned to such State under section 104(b) of title 23, United States Code, except for paragraph (5)(A), in each of the fiscal years ending September 30, 1985, and September 30, 1986, a pro rata share of each category of such apportioned funds, the total amount of which shall be equal to 50 per centum of the amount needed for repayment. Any amount deducted under this subsection shall be reapportioned for the fiscal years 1985 and 1986 in accordance with section 104(b)(1) of title 23, United States Code, to those States which have not received a higher Federal share under this section and to those States which have made the repayment required by subsection (d).”

**FEDERAL-AID HIGHWAYS AND HIGHWAY SAFETY CONSTRUCTION PROGRAMS; MAXIMUM LIMITS ON TOTAL OBLIGATIONS; EXCEPTIONS; STATE ALLOCATIONS**

Pub. L. 105-178, title I, §1102, June 9, 1998, 112 Stat. 115, as amended by Pub. L. 105-206, title IX, §9002(b), July 22, 1998, 112 Stat. 834; Pub. L. 106-159, title I, §103(b)(2), Dec. 9, 1999, 113 Stat. 1753, provided that:

“(a) **GENERAL LIMITATION.**—Notwithstanding any other provision of law but subject to subsections (g) and (h), the obligations for Federal-aid highway and highway safety construction programs shall not exceed—

- “(1) \$21,500,000,000 for fiscal year 1998;
- “(2) \$25,511,000,000 for fiscal year 1999;
- “(3) \$26,245,000,000 for fiscal year 2000;
- “(4) \$26,761,000,000 for fiscal year 2001;
- “(5) \$27,355,000,000 for fiscal year 2002; and
- “(6) \$27,811,000,000 for fiscal year 2003.

“(b) **EXCEPTIONS.**—The limitations under subsection (a) shall not apply to obligations—

- “(1) under section 125 of title 23, United States Code;
- “(2) under section 147 of the Surface Transportation Assistance Act of 1978 [Pub. L. 95-599, set out as a note under section 144 of this title];
- “(3) under section 9 of the Federal-Aid Highway Act of 1981 [Pub. L. 97-134, 95 Stat. 1701];
- “(4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982 [Pub. L. 97-424, 96 Stat. 2119, 2123];
- “(5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 [Pub. L. 100-17, 101 Stat. 198, 200];
- “(6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102-240, see Tables for classification];
- “(7) under section 157 of title 23, United States Code, as in effect on the day before the date of enactment of this Act [June 9, 1998]; and
- “(8) under section 105 of title 23, United States Code (but, for each of fiscal years 1998 through 2007), only in an amount equal to \$639,000,000 per fiscal year.

“(c) **DISTRIBUTION OF OBLIGATION AUTHORITY.**—For each of fiscal years 1998 through 2003, the Secretary shall—

- “(1) not distribute obligation authority provided by subsection (a) for such fiscal year for amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a) of title 23, United States Code, and amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;
- “(2) not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;
- “(3) determine the ratio that—
  - “(A) the obligation authority provided by subsection (a) for such fiscal year less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

“(B) the total of the sums authorized to be appropriated for Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8)) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

“(4) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) for section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965 [now 40 U.S.C. 14501], the Woodrow Wilson Memorial Bridge Authority Act of 1995 [Pub. L. 104–59, title IV, Nov. 28, 1995, 109 Stat. 627], and \$2,000,000,000 for such fiscal year under section 105 of such title (relating to minimum guarantee) so that amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, \$2,000,000,000) for such fiscal year;

“(5) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under this Act [see Tables for classification] and title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

“(6) distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highway and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

“(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

“(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

“(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall after August 1 of each of fiscal years 1998 through 2003 revise a distribution of the obligation authority made available under subsection (c) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, under section 160 of title 23, United States Code (as in effect on the day before the date of enactment of this Act [June 9, 1998]), and under section 1015 of the Intermodal Surface Transportation Act of 1991 (105 Stat. 1943–1945) [Pub. L. 102–240 set out as a note above].

“(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—Obligation limitations imposed by subsection (a) shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, and under title V of this Act [see Tables for classification]; except that obligation authority made available for such programs under such limitations shall remain available for a period of 3 fiscal years.

“(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation authority under subsection (c) for each of fiscal years 1998 through 2003, the Secretary shall distribute to the States any funds (1) that are authorized to be appropriated for such fiscal year for Federal-aid highway programs and for carrying out subchapter I of chapter 311 of title 49, United States Code, and chapter 4 of title 23, United States Code, and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (c)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

“(g) SPECIAL RULE.—Obligation authority distributed for a fiscal year under subsection (c)(4) for a section set forth in subsection (c)(4) shall remain available until used for obligation of funds for such section and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

“(h) INCREASE IN OBLIGATION LIMIT.—Limitations on obligations imposed by subsection (a) for a fiscal year shall be increased by an amount equal to the amount determined pursuant to section 251(b)(1)(B)(ii)(I)(cc) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(B)(ii)(I)(cc) [901(b)(1)(B)(ii)(I)(cc)]) for such fiscal year. Any such increase shall be distributed in accordance with this section.

“(i) LIMITATIONS ON OBLIGATIONS FOR ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the total amount of all obligations under section 104(a) of title 23, United States Code, shall not exceed—

- “(1) \$320,000,000 for fiscal year 1998;
- “(2) \$350,000,000 for fiscal year 1999;
- “(3) \$370,000,000 for fiscal year 2000;
- “(4) \$390,000,000 for fiscal year 2001;
- “(5) \$410,000,000 for fiscal year 2002; and
- “(6) \$430,000,000 for fiscal year 2003.

“(j) REDUCTION IN OBLIGATION CEILING.—The limitation on obligations imposed by subsection (a) for each of fiscal years 2001 through 2003 shall be reduced by \$65,000,000.”

Pub. L. 107–87, title I, Dec. 18, 2001, 115 Stat. 841, provided in part that: “None of the funds in this Act [see Tables for classification] shall be available for the implementation or execution of programs, the obligations for which are in excess of \$31,799,104,000 for Federal-aid highways and highway safety construction programs for fiscal year 2002.”

Pub. L. 107–87, title III, §310, Dec. 18, 2001, 115 Stat. 855, provided that:

“(a) For fiscal year 2002, the Secretary of Transportation shall—

“(1) not distribute from the obligation limitation for Federal-aid Highways amounts authorized for administrative expenses and programs funded from the administrative takedown authorized by section 104(a)(1)(A) of title 23, United States Code, for the highway use tax evasion program, amounts provided under section 110 of title 23, United States Code, and for the Bureau of Transportation Statistics;

“(2) not distribute an amount from the obligation limitation for Federal-aid Highways that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highways and highway safety programs for the previous fiscal year the funds for which are allocated by the Secretary;

“(3) determine the ratio that—

“(A) the obligation limitation for Federal-aid Highways less the aggregate of amounts not distributed under paragraphs (1) and (2), bears to

“(B) the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction programs (other than sums author-

ized to be appropriated for sections set forth in paragraphs (1) through (7) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(8) for such fiscal year less the aggregate of the amounts not distributed under paragraph (1) of this subsection;

“(4) distribute the obligation limitation for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) of section 117 of title 23, United States Code (relating to high priority projects program), section 201 of the Appalachian Regional Development Act of 1965 [now 40 U.S.C. 14501], the Woodrow Wilson Memorial Bridge Authority Act of 1995 [Pub. L. 104-59, title IV, Nov. 28, 1995, 109 Stat. 627], and \$2,000,000,000 for such fiscal year under section 105 of title 23, United States Code (relating to minimum guarantee) so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such section (except in the case of section 105, \$2,000,000,000) for such fiscal year;

“(5) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraph (4) for each of the programs that are allocated by the Secretary under title 23, United States Code (other than activities to which paragraph (1) applies and programs to which paragraph (4) applies) by multiplying the ratio determined under paragraph (3) by the sums authorized to be appropriated for such program for such fiscal year; and

“(6) distribute the obligation limitation provided for Federal-aid Highways less the aggregate amounts not distributed under paragraphs (1) and (2) and amounts distributed under paragraphs (4) and (5) for Federal-aid highways and highway safety construction programs (other than the minimum guarantee program, but only to the extent that amounts apportioned for the minimum guarantee program for such fiscal year exceed \$2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under title 23, United States Code, in the ratio that—

“(A) sums authorized to be appropriated for such programs that are apportioned to each State for such fiscal year, bear to

“(B) the total of the sums authorized to be appropriated for such programs that are apportioned to all States for such fiscal year.

“(b) EXCEPTIONS FROM OBLIGATION LIMITATION.—The obligation limitation for Federal-aid Highways shall not apply to obligations: (1) under section 125 of title 23, United States Code; (2) under section 147 of the Surface Transportation Assistance Act of 1978 [Pub. L. 95-599, formerly set out as a note under section 144 of this title]; (3) under section 9 of the Federal-Aid Highway Act of 1981 [Pub. L. 97-134, 95 Stat. 1701]; (4) under sections 131(b) and 131(j) of the Surface Transportation Assistance Act of 1982 [Pub. L. 97-424, 96 Stat. 2119, 2123]; (5) under sections 149(b) and 149(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 [Pub. L. 100-17, 101 Stat. 198, 200]; (6) under sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 [Pub. L. 102-240, see Tables for classification]; (7) under section 157 of title 23, United States Code, as in effect on the day before the date of the enactment of the Transportation Equity Act for the 21st Century [June 9, 1998]; and (8) under section 105 of title 23, United States Code (but, only in an amount equal to \$639,000,000 for such fiscal year).

“(c) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (a), the Secretary shall after August 1 for such fiscal year revise a distribution of the obligation limitation made available under subsection (a) if a State will not obligate the

amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code, section 160 (as in effect on the day before the enactment of the Transportation Equity Act for the 21st Century [June 9, 1998]) of title 23, United States Code, and under section 1015 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 1943-1945) [Pub. L. 102-240, set out above].

“(d) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—The obligation limitation shall apply to transportation research programs carried out under chapter 5 of title 23, United States Code, except that obligation authority made available for such programs under such limitation shall remain available for a period of 3 fiscal years.

“(e) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—Not later than 30 days after the date of the distribution of obligation limitation under subsection (a), the Secretary shall distribute to the States any funds: (1) that are authorized to be appropriated for such fiscal year for Federal-aid highways programs (other than the program under section 160 of title 23, United States Code) and for carrying out subchapter I of chapter 311 of title 49, United States Code, and highway-related programs under chapter 4 of title 23, United States Code; and (2) that the Secretary determines will not be allocated to the States, and will not be available for obligation, in such fiscal year due to the imposition of any obligation limitation for such fiscal year. Such distribution to the States shall be made in the same ratio as the distribution of obligation authority under subsection (a)(6). The funds so distributed shall be available for any purposes described in section 133(b) of title 23, United States Code.

“(f) SPECIAL RULE.—Obligation limitation distributed for a fiscal year under subsection (a)(4) of this section for a section set forth in subsection (a)(4) shall remain available until used and shall be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.”

Similar provisions for prior fiscal years were contained in the following acts:

Pub. L. 106-346, § 101(a) [title I, title III, § 310], Oct. 23, 2000, 114 Stat. 1356, 1356A-7, 1356A-24.

Pub. L. 106-69, title I, title III, § 310, Oct. 9, 1999, 113 Stat. 994, 1016.

Pub. L. 105-277, div. A, § 101(g) [title I, title III, § 310], Oct. 21, 1998, 112 Stat. 2681-439, 2681-446, 2681-465.

Pub. L. 105-66, title I, title III, § 310, Oct. 27, 1997, 111 Stat. 1431, 1442.

Pub. L. 104-205, title I, title III, § 310, Sept. 30, 1996, 110 Stat. 2958, 2969.

Pub. L. 104-50, title I, title III, § 310, Nov. 15, 1995, 109 Stat. 443, 454.

Pub. L. 103-331, title I, Sept. 30, 1994, 108 Stat. 2477; Pub. L. 104-19, title I, July 27, 1995, 109 Stat. 223.

Pub. L. 103-331, title III, § 310, Sept. 30, 1994, 108 Stat. 2489, as amended by Pub. L. 104-59, title III, § 338(c)(3), Nov. 28, 1995, 109 Stat. 605.

Pub. L. 103-122, title I, title III, § 310, Oct. 27, 1993, 107 Stat. 1206, 1220, as amended by Pub. L. 103-211, title II, Feb. 12, 1994, 108 Stat. 20.

Pub. L. 102-388, title I, title III, § 310, Oct. 6, 1992, 106 Stat. 1528, 1544.

Pub. L. 102-240, title I, § 1002(a)-(g), Dec. 18, 1991, 105 Stat. 1916-1918.

Pub. L. 102-143, title I, title III, § 310, Oct. 28, 1991, 105 Stat. 925, 940.

Pub. L. 101-516, title I, title III, § 310, Nov. 5, 1990, 104 Stat. 2163, 2179.

Pub. L. 101-164, title I, title III, § 310, Nov. 21, 1989, 103 Stat. 1077, 1092.

Pub. L. 100-457, title I, title III, § 310, Sept. 30, 1988, 102 Stat. 2132, 2146.

Pub. L. 100-202, § 101(f) [title I, title III, § 310], Dec. 22, 1987, 101 Stat. 1329-358, 1329-365, 1329-378.

Pub. L. 100-17, title I, §105(a)-(g), Apr. 2, 1987, 101 Stat. 142-144.

Pub. L. 99-500, §101(f) [H.R. 5205, title I, title III, §313(a)-(d)], Oct. 18, 1986, 100 Stat. 1783-308, and Pub. L. 99-591, §101(f) [H.R. 5205, title I, title III, §313(a)-(d)], Oct. 30, 1986, 100 Stat. 3341-308.

Pub. L. 99-272, title IV, §4102(a)-(e), Apr. 7, 1986, 100 Stat. 112, 113.

Pub. L. 99-190, §101(e) [title I, title III, §313], Dec. 19, 1985, 99 Stat. 1267, 1275, 1285.

Pub. L. 98-473, title I, §101(i) [title I, title III, §315], Oct. 12, 1984, 98 Stat. 1944, 1951, 1962.

Pub. L. 98-78, title I, title III, §322, Aug. 15, 1983, 97 Stat. 460, 474.

Pub. L. 98-8, title I, Mar. 24, 1983, 97 Stat. 14.

Pub. L. 97-424, title I, §104(a)-(d), Jan. 6, 1983, 96 Stat. 2098.

Pub. L. 97-134, §3, Dec. 29, 1981, 95 Stat. 1699, as amended by Pub. L. 97-216, title I, July 19, 1982, 96 Stat. 187.

Pub. L. 97-35, title XI, §1106, Aug. 13, 1981, 95 Stat. 624, as amended by Pub. L. 97-424, title I, §104(e), Jan. 6, 1983, 96 Stat. 2099.

#### APPORTIONMENT FACTORS FOR EXPENDITURES ON SYSTEM OF INTERSTATE AND DEFENSE HIGHWAYS

Provisions requiring the Secretary of Transportation to apportion for specific fiscal years sums authorized to be appropriated for such fiscal years by section 108(b) of the Federal-Aid Highway Act of 1956, set out as a note under section 101 of this title, for expenditures on the National System of Interstate and Defense Highways [now Dwight D. Eisenhower System of Interstate and Defense Highways] using the apportionment factors contained in certain tables in particular committee prints of the Committee on Public Works and Transportation of the House of Representatives were contained in the following acts:

Pub. L. 102-240, title I, §1001(b), Dec. 18, 1991, 105 Stat. 1915.

Pub. L. 100-17, title I, §102(a), Apr. 2, 1987, 101 Stat. 135.

Pub. L. 99-104, §1, Sept. 30, 1985, 99 Stat. 474.

Pub. L. 99-4, §1, Mar. 13, 1985, 99 Stat. 6.

Pub. L. 98-229, §1, Mar. 9, 1984, 98 Stat. 55.

Pub. L. 97-327, §3, Oct. 15, 1982, 96 Stat. 1611.

Pub. L. 97-134, §2, Dec. 29, 1981, 95 Stat. 1699.

Pub. L. 96-144, §1, Dec. 13, 1979, 93 Stat. 1084.

Pub. L. 95-599, title I, §103, Nov. 6, 1978, 92 Stat. 2689.

Pub. L. 94-280, title I, §103, May 5, 1976, 90 Stat. 426.

Pub. L. 93-87, title I, §103, Aug. 13, 1973, 87 Stat. 250.

Pub. L. 91-605, title I, §103, Dec. 31, 1970, 84 Stat. 1714.

Pub. L. 90-495, §3, Aug. 23, 1968, 82 Stat. 815.

Pub. L. 89-574, §3, Sept. 13, 1966, 80 Stat. 766.

Pub. L. 89-139, §2, Aug. 28, 1965, 79 Stat. 578.

#### MINIMUM APPORTIONMENT TO EACH STATE; EXPENDITURE OF EXCESS AMOUNTS

Provisions entitling each State, for specific fiscal years, to receive at least one-half of 1 per centum of the total apportionment for the Interstate System under section 104(b)(5)(A) of this title, and authorizing States to expend amounts available under these provisions which are in excess of the estimated cost of completing and of necessary resurfacing, restoring, rehabilitating, and reconstruction of the State's portion of the Interstate System for the purposes for which funds apportioned under section 104(b)(1), (2), and (6) of this title may be expended or for carrying out section 152 of this title were contained in the following acts:

Pub. L. 100-17, title I, §102(c), Apr. 2, 1987, 101 Stat. 135, as amended by Pub. L. 102-240, title I, §1001(h), Dec. 18, 1991, 105 Stat. 1916.

Pub. L. 97-424, title I, §103(a), Jan. 6, 1983, 96 Stat. 2097.

Pub. L. 97-327, §4(b), Oct. 15, 1982, 96 Stat. 1612; repealed Pub. L. 97-424, title I, §103(b), Jan. 6, 1983, 96 Stat. 2098.

Pub. L. 95-599, title I, §104(b)(1), Nov. 6, 1978, 92 Stat. 2691.

Pub. L. 94-280, title I, §105(b)(1), May 5, 1976, 90 Stat. 428.

Pub. L. 93-87, title I, §104(b), Aug. 13, 1973, 87 Stat. 252.

Pub. L. 91-605, title I, §105(b), Dec. 31, 1970, 84 Stat. 1716.

#### PUBLIC BOAT LAUNCHING AREAS; ACCESS RAMPS

Section 147 of Pub. L. 94-280 provided that: "Funds apportioned to States under subsections (b)(1), (b)(2), and (b)(6) of section 104 of title 23, United States Code, may be used upon the application of the State and the approval of the Secretary of Transportation for construction of access ramps from bridges under construction or which are being reconstructed, replaced, repaired, or otherwise altered on the Federal-aid primary, secondary, or urban system to public boat launching areas adjacent to such bridges. Approval of the Secretary shall be in accordance with guidelines developed jointly by the Secretary of Transportation and the Secretary of the Interior."

#### USE OF FEDERAL FUNDS DURING PERIOD BEGINNING FEBRUARY 12, 1975, AND ENDING SEPTEMBER 30, 1975

Pub. L. 94-30, §3, June 4, 1975, 89 Stat. 171, sanctioned the use of any money apportioned under section 104(b) of this title for any Federal-aid highway system in a State for any project in that State on any Federal-aid highway system, such amount to be deducted from the apportionment made after June 4, 1975 and repaid and credited to the last apportionment made for which the money was originally apportioned.

#### MINIMUM APPORTIONMENT FOR PRIMARY SYSTEM; ADDITIONAL APPROPRIATIONS FOR FISCAL YEARS ENDING JUNE 30, 1974, 1975, AND 1976

Section 111(b) of Pub. L. 93-87 provided that: "Notwithstanding the amendments made by subsection (a) of this section [to subsecs. (b)(1), (2), (6), (c) and (d) of this section] no State (other than the District of Columbia) shall receive an apportionment for the primary system which is less than the apportionment which such State received for such system for the fiscal year ending June 30, 1973. In order to carry out this subsection, there is authorized to be appropriated out of the Highway Trust Fund for the Federal-aid primary system, an additional \$17,000,000 for the fiscal year ending June 30, 1974, and \$15,000,000 per fiscal year for the fiscal years ending June 30, 1975, and June 30, 1976."

#### SECTION 102(a) OF THE FEDERAL-AID HIGHWAY ACT OF 1956

Act June 29, 1956, ch. 462, title I, §102(a), 70 Stat. 374, authorized, for the purpose of carrying out the provisions of the Federal-Aid Road Act approved July 11, 1916, additional appropriations of \$125,000,000 for the fiscal year ending June 30, 1957, \$850,000,000 for the fiscal year ending June 30, 1958, and \$875,000,000 for the fiscal year ending June 30, 1959, and provided for the percentage allocation of these funds for primary, secondary and urban systems and the manner of apportionment among the States.

#### APPROVAL OF ESTIMATE OF COST OF COMPLETING THE INTERSTATE SYSTEM AS BASIS FOR APPORTIONMENT OF FUNDS FOR FISCAL YEARS 1963 TO 1966

Pub. L. 87-61, title I, §102, June 29, 1961, 75 Stat. 122, approved the estimate of cost of completing the Interstate System in each State, transmitted to the Congress on Jan. 11, 1961, as the basis for making the apportionment of funds authorized for the fiscal years ending June 30, 1963, 1964, 1965, and 1966.

#### APPROVAL OF ESTIMATE OF COST OF COMPLETING THE INTERSTATE SYSTEM AS BASIS FOR APPORTIONMENT OF FUNDS FOR FISCAL YEARS 1960-1962

Pub. L. 85-381, §8, Apr. 16, 1958, 72 Stat. 94, as amended by Pub. L. 85-899, §1, Sept. 2, 1958, 72 Stat. 1725; Pub. L. 86-342, title I, §103, Sept. 21, 1959, 73 Stat. 611, ap-

proved the estimate of cost of completing the Interstate System in each State, transmitted to the Congress on Jan. 7, 1958, as the basis for making the apportionment of funds authorized for the fiscal years ending June 30, 1960, 1961, and 1962.

APPORTIONMENTS FOR SUBSEQUENT YEARS BASED ON  
REVISED ESTIMATES OF COST

Act June 29, 1956, ch. 462, title I, §108(d), 70 Stat. 379, as amended by act Sept. 2, 1958, Pub. L. 85-899, §2, 72 Stat. 1725, provided that the sums authorized for the fiscal years 1960 through 1969 be apportioned among the several States in the ratio which the estimated cost of completing the Interstate System had to the sum of the estimated cost of completing the Interstate System in all of the States, and required the Secretary of Commerce, in cooperation with State highway departments, to make detailed revised estimates of the cost of completion of the system and to supply Congress with such revised estimate.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 105, 115, 117, 118, 119, 120, 126, 127, 130, 131, 133, 134, 136, 137, 140, 141, 142, 143, 146, 149, 151, 152, 153, 154, 157, 158, 159, 160, 161, 164, 204, 217, 303, 309, 311, 504, 505 of this title; title 49 sections 5504, 31314.

### § 105. Minimum guarantee

(a) GENERAL RULE.—For each of fiscal years 1998 through 2003, the Secretary shall allocate among the States amounts sufficient to ensure that each State's percentage of the total apportionments for such fiscal year of Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation, metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs shall equal the percentage listed for each State in subsection (b). The minimum amount allocated to a State under this section for a fiscal year shall be \$1,000,000.

(b) STATE PERCENTAGES.—The percentage for each State referred to in subsection (a) shall be determined in accordance with the following table:

States:	Percentage
Alabama .....	2.0269
Alaska .....	1.1915
Arizona .....	1.5581
Arkansas .....	1.3214
California .....	9.1962
Colorado .....	1.1673
Connecticut .....	1.5186
Delaware .....	0.4424
District of Columbia .....	0.3956
Florida .....	4.6176
Georgia .....	3.5104
Hawaii .....	0.5177
Idaho .....	0.7718
Illinois .....	3.3819
Indiana .....	2.3588
Iowa .....	1.2020
Kansas .....	1.1717
Kentucky .....	1.7365
Louisiana .....	1.5900
Maine .....	0.5263
Maryland .....	1.5087
Massachusetts .....	1.8638
Michigan .....	3.1535
Minnesota .....	1.4993
Mississippi .....	1.2186
Missouri .....	2.3615

States:	Percentage
Montana .....	0.9929
Nebraska .....	0.7768
Nevada .....	0.7248
New Hampshire .....	0.5163
New Jersey .....	2.5816
New Mexico .....	0.9884
New York .....	5.1628
North Carolina .....	2.8298
North Dakota .....	0.6553
Ohio .....	3.4257
Oklahoma .....	1.5419
Oregon .....	1.2183
Pennsylvania .....	4.9887
Rhode Island .....	0.5958
South Carolina .....	1.5910
South Dakota .....	0.7149
Tennessee .....	2.2646
Texas .....	7.2131
Utah .....	0.7831
Vermont .....	0.4573
Virginia .....	2.5627
Washington .....	1.7875
West Virginia .....	1.1319
Wisconsin .....	1.9916
Wyoming .....	0.6951

(c) TREATMENT OF FUNDS.—

(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion the amounts made available under this section that exceed \$2,800,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subsection (a) (other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

(A) the amount of funds apportioned to each State for each program referred to in subsection (a) (other than metropolitan planning, minimum guarantee, high priority projects, Appalachian development highway system, and recreational trails programs) for a fiscal year; bears to

(B) the total amount of funds apportioned to each State for such program for such fiscal year.

(2) REMAINING DISTRIBUTION.—The Secretary shall administer the remainder of funds made available under this section to the States in accordance with section 104(b)(3); except that requirements of paragraphs (1), (2), and (3) of section 133(d) shall not apply to amounts administered pursuant to this paragraph.

(d) AUTHORIZATION.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this section for each of fiscal years 1998 through 2003.

(e) SPECIAL RULE.—If in any of fiscal years 1999 through 2003, the amount authorized under subsection (d) is more than 30 percent higher than the amount authorized under subsection (d) in fiscal year 1998, the Secretary shall use the apportionment factors under sections 104 and 144 as in effect on the date of enactment of this section.

(f) GUARANTEE OF 90.5 RETURN.—

(1) IN GENERAL.—Before making any apportionment under this title for each of fiscal